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DEFENDANT'S EXHIBIT D-1

By letter dated November 13, 1952 and mailed November 14, 1952, Tungsten Mining Corporation was advised:

> Pursuant to the Labor Management Relations Act of 1947, and with express reference to Title I, Section 8 (d) thereof, your (sic) are, hereby, notified that in accordance with Article 27, Duration of Agreement, of agreement dated May 15, 1950 and expiring on January 15, 1952 and Extension Agreement expiring on January 15, 1953 between Tungsten Mining Corporation and United Stone and Allied Products Workers of America, Local Branch 98, this is to serve notice that the majority of the members of Local Branch 98 desire to terminate the above mentioned contract in its entirety on January 15, 1953.

This will also serve to notify you that any new Contract or Extension Agreement under this present Contract entered into with the above named Union will not be authorized or sanctioned by us.

Yours very truly,

/s/ George W. Pendley
Recording Secretary, Local Branch 98

Witnessed:

/s/ Cordell Holloman
/s/ Paul D. Gentry
/s/ R. H. Harris

cc: United Stone & Allied Products Workers of America, CIO National Labor Relations Board. Winston-Salem, N. C.

DEFENDANT'S EXHIBIT D-2

UNITED STONE AND ALLIED PRODUCTS
WORKERS OF AMERICA

November 14, 1952

Tungsten Mining Corporation
Post Office Box No. 81
Henderson, N. C.

Gentlemen:

As per Article 27 of Agreement now in effect between Your Company and the United Stone and Allied Products Workers of America, please consider this as notice that the above stated Union wishes to terminate said Agreement on January 15, 1953.

I will contact you in the next few days for purpose of setting date for purpose of starting negotiations on a new agreement.

Yours very truly,

J. B. FOREMAN
International Representative

Registered mail
return receipt
requested

DEFENDANT'S EXHIBIT D-3

UNITED STONE AND ALLIED PRODUCTS WORKERS OF AMERICA
Scampini Building
Barre, Vermont

Affiliated with the Congress of Industrial Organizations

J. B. Foreman
International Representative

November 18, 1952

TO ALL MEMBERS OF LOCAL 98 UNITED STONE AND ALLIED PRODUCTS WORKERS OF AMERICA.

This is to inform you that the International Executive Board of the United Stone and Allied Products Workers of America finds that a crisis exists in the affairs of said Local 98, that in order to protect the interest of its members, it was necessary to appoint an administrator.

The writer was appointed administrator and the following appointments have been made to act under his directions:

Mr. Frank Swann, President
Mr. R. D. Carde, Financial Secretary-Treasurer

Other appointments will be made from time to time.

Very Fraternally yours,

/s/ J. B. Foreman
Administrator

DEFENDANT'S EXHIBIT D-4

MEMBERSHIP APPLICATION AND CHECKOFF AUTHORIZATION DISTRICT 50, UNITED MINE WORKERS OF AMERICA

I hereby request and accept membership in District 50, United Mine Workers of America, and authorize it to represent me in my behalf to negotiate and execute any and all agreements pertaining to wages, hours, and conditions of work. This power to act in my behalf expressly revokes and shall supersede all previous authorizations which I may have given to any other person or organization for the purpose of representing me as an employee. The Constitution, Laws, Rules, Policies, Regulations and Edicts of the above Union and all amendments thereto shall be binding upon me. In consideration for services rendered and to be rendered by the above Union, I agree to pay all reasonable amounts of money lawfully required as a condition to obtain and maintain membership in good standing.

My employer, therefore, is hereby authorized to deduct from my wages and turn over to the officer or representative, as designated in the applicable agreement, all such amounts of money above outlined and limited to the amounts provided in the applicable agreement between the above Union and my employer, and this authorization and assignment shall be irrevocable for the term of the applicable contract between the Union and the Company or for one year, whichever is the lesser, and shall automatically renew itself for successive yearly or applicable contract periods thereafter, whichever is the lesser, until I give written notice to the Company and the Union at least 60 days and not more than _____ days before any periodic renewal date of this authorization and assignment of my desire to revoke the same.

Signature____Charles W. Ballock____ Clock No.__70__
Address__551 Charles Street, Henderson, North Carolina.
Employed by_____Tungsten Mining Corporation_____
Social Security No.___242-24-3458___ Date__10-10-52__

This paper UNION MADE by District 50, UMWA

Dist. 50 Form 528 Revised 5-20-48

This represents 386 completed and executed membership applications in accordance with specimen above. Record p. 244.

DEFENDANT'S EXHIBIT D-5

Date: November 3, 1952

To Whom It May Concern:

I hereby wish to sever all relations with the United Stone and Allied Products Workers of America and request it no longer be the certified Bargaining Agent at the Tungsten Mining Corporation, Tungsten, North Carolina.

Signed: DALTON ABBOTT
Badge No. 270

Witness: HAROLD RANER

This represents 269 completed and executed severence notices in accordance with specimen above. Record p. 244.

DEFENDANT'S EXHIBIT D-6

ALPHABETICAL LIST OF NAMES ON ATTACHED OFFICIAL NOTICE SLIPS

	Name	*Badge No.*
1	Abbott, Dalton	270
2	Adcox, Alton K.	—
3	Algood, Earnest, Jr.	225
4	Allen, Elquit	137
5	Allen, Plummer E.	20
6	Allen, William	140
7	Alston, Claude	174
8	Alston, Jeff	—
9	Alston, John B.	93
10	Alston, Robert T.	340
11	Ayscue, Ollie N.	234
12	Ayscue, Sidney P.	39
13	Bates, Junius Lee	271
14	Bland, Carter L.	95
15	Brame, E. G.	21
16	Brame, Grady	105
17	Brame, Monroe, Jr.	154
18	Brandt, Junious	122
19	Brown, James E.	121
20	Brown, Samuel L.	43
21	Buchanan, Baxter	—
22	Buchanan, Columbus	141
23	Buchanan, Dewey P.	—
24	Buchanan, Homer H.	—
25	Buchanan, Phillip	16
26	Buchanan, Robert J.	53
27	Bullock, Elvin D.	—
28	Bullock, Herbert	98
29	Bullock, Louis	205
30	Bullock, P. A.	148
31	Burchett, James K.	275

	Name	Badge No.
32	Burgess, Glenn G.	90
33	Burnell, Albert	127
34	Burrell, Clifton E.	172
35	Burwell, Fred	246
36	Burwell, Johnnie	162
37	Burton, George	118
38	Brandon, Irwin	260
39	Burwell, Sandy	337
40	Caple, Sylvester	329
41	Cannady, Gerald	171
42	Carlberg, Arthur	—
43	Champion, Macy	326
44	Choplin, Harold J.	51
45	Choplin, M. T.	58
46	Chavis, Eddie	92
47	Chavis, Jarvis	139
48	Cheek, Everett B.	130
49	Cheek, Richard A.	163
50	Chewning, Charles R.	46
51	Clark, Charles M.	241
52	Clark, Paul	286
53	Cochran, Robert	240
54	Coghill, Fred	111
55	Collins, G. B.	—
56	Cooper, Jasper	179
57	Cooper, W. H.	—
58	Crews, Lattie	112
59	Davis, Edward, Jr.	217
60	Davis, Henry	165
61	Davis, Peter M.	151
62	Davis, John R.	101
63	Dixon, Robert, Jr.	67
64	Dunston, James E.	296
65	Dunston, Jimmie F.	57
66	Durham, James	299
67	Durham, Henry L.	170

	Name	Badge No.
68	Davis, Irvin S.	423
69	Eaddy, Clarence	169
70	Ellington, Lawrence M.	279
71	Elliott, James O.	156
72	Evans, Charlie, Jr.	250
73	Evans, William H.	4
74	Fame, Dick	62
75	Fisher, C. R.	—
76	Fleming, John, Jr.	178
77	Floyd, Robert	55
78	Fortner, Roy	—
79	Foster, David	321
80	Foster, John A.	136
81	George, K. L.	8
82	Glover, James E.	209
83	Glover, James H.	47
84	Glover, Joseph	—
85	Gooch, Thomas	298
86	Gray, Robert	—
87	Gray, Willie	144
88	Griggs, James P.	280
89	Grissom, Robert C.	—
90	Greenway	153
91	Gupton, Alvin	—
92	Gupton, David B.	—
93	Hargrove, Eugene	161
94	Hargrove, John Elna	—
95	Hargrove, Thomas W.	119
96	Hargrove, Willie J.	220
97	Hanna, L. D.	63
98	Harris, E. A.	—
99	Harris, Furman W.	—
100	Harris, R. H.	64
101	Harris, Willie H.	223
102	Harris Willie R.	278
103	Harrison, James	72

	Name	Badge No.
104	Hanks, William	339
105	Hayes, James	80
106	Hayes, Perry R.	103
107	Haynes, James	45
108	Henderson, Herbert	135
109	Henderson, Rubin	107
110	Henderson, Willie M.	242
111	Hendrick, Clifton	282
112	Hendricks, Jacob A.	269
113	Hendricks, Otis L.	44
114	Hines, Dennis M.	—
115	Holloman, Cordell	39
116	Howard, James A.	214
117	Howell, Thomas	244
118	Hughes, J. B.	—
119	Hunt, Alvin	—
120	Hunt, Edward L.	276
121	Hunt, James E.	37
122	Hunter, Clarence	300
123	Huskins, L. L.	207
124	Jenkins, William B.	285
125	Jernigan, James L.	40
126	Johnson, James A.	160
127	Johnson, R. L.	33
128	Johnston, H. E.	—
129	Johnston, S. H.	50
130	Jones, Clarence E.	50
131	Jones, Douglas R.	—
132	Jones, H. A.	252
133	Jones, Jimmie, Jr.	145
134	Jones, Rufus H.	—
135	Jones, Sylvester	277
136	Judkins, William T.	108
137	Kearney, Emanuel	113
138	Keel, Melvin	249
139	Keener, H. F.	26

	Name	Badge No.
140	Kelly, George E.	—
141	Kelly, Nathaniel	53
142	Kersey, John T.	—
143	Kersey, Robert W.	176
144	Kersey, Thomas W.	191
145	Kilpatrick, P. H.	—
146	Knight, Jimmie C.	229
147	Knott, P. W.	—
148	Lacy, Kenneth C.	—
149	Lemas, Robert	134
150	Levister, Joseph W.	273
151	Link, Jasper	243
152	Long, Paul V.	35
153	Lewis, Willie Grant	56
154	Manon, Boley, Jr.	86
155	Marron, Samuel	116
156	Mason, Edward	—
157	Mason, George A.	74
158	Matthews, John E.	—
159	McCoy, James E.	251
160	McKnight, Robert	—
161	Meadows, Richard C.	267
162	Mekhor, Nathaniel	128
163	Merkle, Ernest	110
164	Millsaps, James B.	83
165	Mitchell, Harold	256
166	Mitchell, Willie, Jr.	109
167	Monroe, James	Mill
168	Moore, Willard	262
169	Mosley, Ben F.	—
170	Murphy, Lawrence M.	208
171	Overby, Willie	292
172	Palston, James	164
173	Patton, Francis J.	224
174	Pendley, George W.	—
175	Pettiway, Hillard	235

	Name	Badge No.
176	Person, William H.	306
177	Pinpler, Bruce C.	—
178	Plummer, Clarence	66
179	Poole, Dennis	25
180	Pritchett, Robert	147
181	Ragland, George W.	253
182	Ragland, Harold T.	77
183	Rainey, James E.	245
184	Raner, Harold E.	99
185	Ragand, Rufus M.	259
186	Raylord, Willie R.	180
187	Reamey, Clifton C.	177
188	Reams, H. A., Jr.	34
189	Reams, J. H.	—
190	Reed, Percell	218
191	Reynolds, Henry	28
192	Rice, Nathaniel	227
193	Richardson, Early	152
194	Richardson, Monice	201
195	Richardson, Willie	41
196	Riggon, R. A.	30
197	Robertson, H. W.	27
198	Roberson, J. B., Jr.	322
199	Robertson, J. E.	236
200	Roper, Ernest H.	211
201	Roper, Everett J.	312
202	Royster, Charles	334
203	Royster, Milton	—
204	Satterwhite, Edward	125
205	Satterwhite, W. D.	9
206	Scott, Fred	328
207	Self, J. R.	—
208	Shearin, Herman, Jr.	—
209	Shields, Thomas	274
210	Sloan, Thomas M.	149
211	Small, Sandy	91

	Name	Badge No.
212	Smith, Harold	73
213	Sneed, Charles	—
214	Stamback, Clifton P.	—
215	Stanley, D. S.	5
216	Steed, Moris	129
217	Stevenson, Frank	294
218	Stevenson, Raymond	88
219	Stevenson, Sylvester	175
220	Sumner, Clarence E.	14
221	Taylor, Dennis M.	75
222	Taylor, Edward T.	52
223	Taylor, James	—
224	Taylor, Peter Nathaniel	286
225	Taylor, Simon	313
226	Terry, John	233
227	Terry, Junius	—
228	Tisdale, Larson	167
229	Townes, Harry, Jr.	221
230	Townes, Moses Zeb	212
231	Townes, Willie S.	307
232	Trevine, Roy	69
233	Travis, William H.	222
234	Twitty, Edward	289
235	Tuck, Robert Lee	96
236	Tucker, Benj. G., Jr.	10
237	Twisdale, Cephas L.	—
238	Walker, Jimmie L.	237
239	Wallace, W. E.	—
240	Ward, Bennie J.	288
241	Warrow, Randolph	231
242	Washington, Hayes	265
243	Watkins, Fred, Jr.	—
244	Watson, Robert	236
245	Whittley, James C.	272
246	Wiggins, William A.	102
247	Wilkins, Jessie	138

	Name	*Badge No.*
248	Williams, Charles	248
249	Williams, Charlie	239
250	Williams, Clinton	—
251	Williams, Earlie J.	94
252	Williams, Jimmie	258
253	Williams, Junious	158
254	Williams, John	84
255	Williams, John D.	38
256	Williams, Lewis T.	133
257	Williams, Melvin	—
258	Williams, Thurlon B.	327
259	Williams, Samuel	3300
260	Williamson, Lucius	—
261	Williamson, Millard	60
262	Wilson, Bobbie H.	29
263	Winston, Lee	147
264	Woodard, Charlie	255
265	Woody, B. B.	24
266	Woody, Robert	204
267	Wright, Milman	291
268	Young, Leroy	301
269	Yancey, Walter R.	—

STATEMENT.

To the best of our ability we have endeavored to alphabetically list the names contained in the foregoing two pages, for conformance only of the notice slips herein enclosed. If any are not alphabetized correctly they can possibly be identified if not by the name, then thru the badge number, if such badge number has been listed by the employee.

I hereby attest and affirm that separate notices, apparently by signature of the employee himself, are attached hereto in the number listed on the alphabetical list enclosed.

Cordell Holloman

Sworn to and subscribed to before me, this 21st day of January, 1953, in the City and State aforesaid.

W. J. Powell
Notary Public

My commission expires on Dec. 28, 1953.

EXHIBIT D-9

NORTH CAROLINA, VANCE COUNTY	IN THE SUPERIOR COURT

TUNGSTEN MINING CORPORATION

vs.

DISTRICT 50, UNITED MINE WORKERS OF AMERICA; WILLIAM CORDELL HOLLOMAN; J. B. ROBERTSON, JR.; FRANCIS PATTON; GEORGE W. PENDLEY; RAY L. PATTERSON; JAMES C. KNIGHT; LUCIOUS WILLIAMSON; C. R. FISHER; JAMES JOURNIGAN; PERRY HAYES; HAROLD MITCHELL; WILLIE MITCHELL; AND ALL OTHER PERSONS TO WHOM NOTICE AND KNOWLEDGE OF THIS ACTION MAY COME.

TEMPORARY RESTRAINING ORDER

This cause coming on to be heard before the undersigned Clawson L. Williams, Judge Presiding, Third Judicial District, at Chambers in Henderson, North Carolina, upon the verified complaint filed by the plaintiff in this cause, treated as an affidavit; and it appearing to the court that action has been commenced by the plaintiff in the Superior Court of Vance County against the defendants above named, and that summons has been issued in said action against said defendants in which action the plaintiff seeks an injunction against certain acts of the defendants and others therein complained of;

And upon a consideration of said verified complaint treated as an affidavit, it appearing to the Court that the de-

fendants named herein and other persons unknown to the plaintiff, have committed and are committing unlawful acts upon and off the plaintiff's premises at Tungsten, North Carolina, and are unlawfully interfering with the conduct of the plaintiff's business and with free and lawful ingress and egress to and from the plaintiff's plant by employees of the plaintiff; and have threatened and are threatening to continue their unlawful conduct and to continue unlawfully interfering with the plaintiff in the use of its premises and the prosecution of its business, and to interfere with and molest persons rightfully entering upon the plaintiff's premises; and it appearing to the Court that the plaintiff is entitled to a temporary order restraining and enjoining the defendants from continuing their said unlawful acts and conduct; it is now, therefore,

ORDERED, ADJUDGED, and DECREED that the named defendants, and each of them, and all persons acting in concert with them or under their direction or the direction of any of them, and all other persons to whom notice and knowledge of this order may come, are, until the merits of this cause are determined; and until this Court orders otherwise, hereby enjoined and restrained as follows:

1. From interfering in any manner with free ingress and egress to and from the plaintiff's premises.

2. From assaulting, threatening, abusing, damaging the property of or in any manner intimidating persons who work or seek to work in or lawfully seek to enter, plaintiff's plant, whether on the plaintiff's premises or thoroughfares adjacent thereto, or away from said premises.

3. From assembling together in a motor vehicle or vehicles, and pursuing or following employees of plaintiff riding to and from their work at plaintiff's plant, wheth-

er on private roadways on plaintiff's property or on public highways leading to and from said plant.

4. From having more than six persons at any one time as peaceful pickets at any gate to the plaintiff's plant, provided that no person, including pickets, may approach closer to any gate or entrance to the plaintiff's plant than 100 feet, and provided further that no person or persons shall block driveways or walkways leading to the gates or other entrances to said plant; provided further there shall be no pickets except at the two main entrance gates to plaintiff's premises or plant.

It is the intent and purpose of this Paragraph 4 that no person, whether engaged in picketing or not, other than persons lawfully seeking to approach and enter the plaintiff's premises for the purpose of transacting lawful business or lawfully traveling along thoroughfares adjacent thereto, shall approach closer to any gate of plaintiff's plant than 100 feet.

5. No person shall abuse, intimidate, strike, threaten, or use any vile abusive, violent, or threatening language at or towards any person on the plaintiff's premises or any person entering or leaving said premises, or any employees of plaintiff anywhere, and shall in no manner interfere with or impede any motor vehicles, wagon, cart, truck, or animal, in approaching or leaving the plaintiff's premises, and shall in no manner interfere with the free ingress and egress of any person or vehicle or animal to or from the plaintiff's plant, or along and over any of the streets, roads, or walkways adjacent or leading to the plaintiff's plant.

The acts which persons are hereby enjoined and restrained from doing, they and each of them likewise are hereby enjoined and restrained from aiding or procuring or causing to be done.

This order shall become effective upon the plaintiff's filing with the Clerk of the Superior Court of Vance County a written undertaking with sufficient sureties justified before and approved by said Clerk in the amount of $2,000.00, guaranteeing to the amount specified that the plaintiff will pay to the defendants such damages as the defendants may sustain by the issuance of this order, in the event it may be finally determined by the Court that the plaintiff was not entitled thereto. It is further

ORDERED, ADJUDGED, and DECREED that the Sheriff of Vance County shall immediately post copies of this order in conspicuous places at and in the vicinity of the plaintiff's plant, and particularly at the entrance gates to said plant.

It is further ORDERED, that the defendants and each of them appear before the undersigned Judge of the Superior Court at the Court House in Halifax County, North Carolina, on Monday, February 2nd, 1953, at 11:00 o'clock a.m., or as soon thereafter as they may be heard, then and there to show cause, if any they may have, why this order should not be continued to the trial of this action on its merits.

This 14th day of January, 1953, at 5:05 p.m.

CLAWSON L. WILLIAMS,
Judge, Superior Court.

EXHIBIT D-10

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

REED JOHNSTON, Regional Director of the Eleventh Region of the National Labor Relations Board, for and on behalf of the NATIONAL LABOR RELATIONS BOARD,

Petitioner

vs.

TUNGSTEN LOCAL UNION, UNITED MINE WORKERS OF AMERICA, a recently organized labor organization consisting of Cordell Holloman and others, CORDELL HOLLOMAN, its agent, District 50, United Mine Workers of America, and ROBERT R. FOHL, its agent,

Respondents

Civil No. 670

DECREE

This cause came on to be heard upon the verified petition of Reed Johnston, Regional Director of the Eleventh Region of the National Labor Relations Board, on behalf of said Board, pursuant to Section 10 (1) of the National Labor Relations Act as amended, for an injunction pending final adjudication of the Board of the matters involved, and upon an order to show cause why injunctive relief as prayed should not be granted. The Court, upon consideration of the petition, respondents' oral answer thereto in open court, testimony, exhibits, evidence, oral arguments and briefs, duly made and entered its findings of fact and conclusions

of law. It appearing to the satisfaction of the Court that there is reasonable cause to believe that respondents have engaged in and are engaging in conduct in violation of Section 8 (b), sub-section (4) (C) of the said Act, and that such acts and conduct affect commerce within the meaning of Section 2, sub-sections (6) and (7) of the Act, NOW THEREFORE,

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. That respondents Tungsten Local Union, United Mine Workers of America, a recently organized labor organization consisting of Cordell Holloman and others, Cordell Holloman, its agent, District 50, United Mine Workers of America, and Robert R. Fohl, its agent, and each of them, and their officers, representatives, agents, servants, employees, attorneys, members and all persons in active concert or participation with them, be and they hereby are restrained and enjoined, pending the final adjudication of this matter by the National Labor Relations Board, from:

Engaging in, or by picketing, order, instructions, directions, appeals, threats, intimidation, coercion or by any like or related acts or conduct, or by permitting any such to remain in existence or effect, inducing or encouraging the employees of the Tungsten Mining Corporation, or of any other employer, to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials or commodities, or to perform any services, where an object thereof is to force or require the said Tungsten Mining Corporation to recognize or bargain with respondent Tungsten Local Union, United Mine Workers of America, and or respondent District 50, United Mine Workers of America, as the collective bargaining representative of any of the employees of said corporation in the unit

for which the United Stone and Allied Products Workers of America, C.I.O. has been duly certified by the Regional Director of the National Labor Relations Board as the exclusive bargaining representative under the provisions of Section 9 of the National Labor Relations Act.

2. Respondents shall forthwith notify all members of respondent Tungsten Local Union, United Mine Workers of America, by mailing letters to their respective last known places of residence and by posting notices for thirty days at all places where said respondent Tungsten Local Union conducts its business or where notices to its members are customarily posted, of the terms and provisions of this decree and directing that its members shall cease their strike and picketing at the mine and plant of the Tungsten Mining Corporation for the prescribed object above described, and that, pending final adjudication of this matter by the Board, all orders, instructions, directions, rules or regulations contrary to the terms of this decree are revoked, rescinded and withdrawn.

3. Respondents shall forthwith prepare a written press release stating that respondents have rescinded and withdrawn their demand that the Tungsten Mining Corporation shall recognize or bargain with respondents or any of them, and stating respondents' intention to comply with this decree and that respondents have directed their members to cease their strike and picketing at the mine and plant of the Tungsten Mining Corporation for the prescribed object above described. Respondents shall deliver signed copies of such press release for publication to the newspapers, radio stations and other media of news communication through which the respondents caused publication of their demands upon said corporation for recognition and bargaining and of the purposes and objects of the strike at the said corporation about January 12, 1953.

4. Respondents, and each of them, shall file with this Court, within thirty days after service of a copy of this decree upon them, a sworn statement showing in detail the steps taken by them to comply with this decree.

5. Jurisdiction of this cause is retained for the purpose of giving full effect to this decree, and for the purpose of making such further and other orders and decrees as may be necessary herein.

Done at Raleigh, North Carolina, this 3 day of February, 1953.

A true Copy, Teste:
A. Hand James, Clerk
By /s Keen Jones
Deputy Clerk.

/s DON GILLIAM, Judge
UNITED STATES DISTRICT JUDGE

To:

Honorable Don Gilliam, Judge United States District Court
For the Eastern District of North Carolina

From:

Tungsten Local Union, United Mine Workers of America, a recently organized labor organization consisting of Cordell Holloman and others, Cordell Holloman, its agent, District 50, United Mine Workers of America, and Robert R. Fohl, its agent,—Respondents in Civil No. 670.

On February 3, 1953, a Decree was entered against the above respondents, wherein Section 4 specifically read—

"Respondents, and each of them, shall file with this Court, within thirty days after service of a copy of this decree upon them, a sworn statement showing in detail the steps taken by them to comply with this decree."

Kindly be advised that the following steps were taken by the respondents to comply with this decree:

(a) Attached mimeographed notice and copy of decree was sent by first-class mail to Three Hundred Ninety-One (391) members of Tungsten Local, District 50, United Mine Workers of America; one copy to the Tungsten Mining Corporation; innumerable copies were posted at all places where the Tungsten Local Union conducted its business or where notices to its members are customarily posted, and copies were also delivered "for publication, to the newspapers, radio stations and other media of news communication through which the respondents caused publication of their demands upon said corporation for recognition and bargaining."

(b) A number of the first-class mimeographed copies of this notice and decree, which were mailed to the last known places of residence of our members, were returned. Where errors on our part were noted, these notices were remailed and as a last resort, a number of these letters were sent directly to the Tungsten Mining Corporation, Tungsten, North Carolina, with the request that they assist us in locating the individuals. A copy of the letter to the Tungsten Mining Corporation, which accompanied these letters is also attached, for your information.

The respondents immediately carried out the above after the decree was delivered to them, with the intent to comply fully with its terms.

/s/ Robert R. Fohl
Robert R. Fohl

/s/ Cordell Holloman
Cordell Holloman

Sworn to and subscribed before me this 3rd day of March, 1953.

/s/ W. J. Powell
Notary Public

My commission expires Dec. 26, 1953.

TO:

MEMBERS OF TUNGSTEN LOCAL, DISTRICT 50 UNITED MINE WORKERS OF AMERICA: TUNGSTEN MINING CORPORATION: FOR POSTING: AND FOR IMMEDIATE RELEASE TO THE PRESS AND RADIO

Notice is hereby given that on February 3, 1953, Judge Don Gilliam issued an order, a copy of which is herewith attached for your information and guidance.

Under the order District 50, UMWA, has no choice but to direct its members at Tungsten to "cease their strike and picketing at the mine and plant *** to force or require the said Tungsten Mining Corporation to recognize or bargain with *** Tungsten Local *** as the collective bargaining representative of any of the employees of said corporation in the unit for which" another union has been certified, which District 50 or its agents hereby does as directed. Under said order District 50 is commanded to withdraw its demand for recognition by the Corporation for collective bargaining purposes, which it likewise hereby does.

District 50, UMWA, intends to comply with the terms and conditions of this order or decree.

This 3rd day of February, 1953.

District 50, United Mine Workers of America

By /s/ Robert R. Fohl
Regional Director
/s/ Cordell Holloman

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF NORTH CAROLINA
RALEIGH DIVISION
CIVIL No. 742

TUNGSTEN MINING CORPORATION

vs.

DISTRICT 50, UNITED MINE WORKERS OF AMERICA

ORDER

This cause coming on to be heard before The Honorable Don Gilliam, District Judge, upon Motion of defendant to strike out all of Paragraph 10 of the Complaint and the phrase of Paragraph 11 of the Complaint beginning after the word "alleged" in the second line thereof and ending before the word "production" in line three thereof, "and as determined by the National Labor Relations Board", for that the allegations contained in said Paragraphs as shown above are irrelevant, immaterial and improper, and that evidence in support of said allegations would be inadmissible, and the Court being of the opinion, and finding as a fact, that said allegations are irrelevant, immaterial and improper, and evidence in support of them would be inadmissible on the trial of said cause.

It is now, therefore, ORDERED, ADJUDGED and DECREED that the hereinbefore stated parts of the Complaint filed herein, be and the same are hereby stricken out.

It is further ORDERED that the defendant is hereby directed and ordered to file answer or other appropriate pleadings to said Complaint as modified by this order, in thirty (30) days from this date.

Done at Raleigh, North Carolina, this the 18th day of November, 1954.

/s/ Don Gilliam
District Judge

EXCERPTS OF ORAL TESTIMONY TAKEN FROM TRANSCRIPT OF EVIDENCE

(References are to pages and lines of transcript)

Testimony of Sam H. Scott

On page 10. Lines 6 through 25.

Q. And then sometime in December of '52 you entered into this agreement, the one you have introduced in evidence?

A. We negotiated the agreement in 1952 to become effective January 15, 1953.

Q. That was signed by Mr. Long and Mr. Sweet and Mr. B. B. Bailey. Who was Mr. Bailey?

A. Supervisor in some capacity.

Q. Those three men all represented the management?

A. Yes, sir.

Q. It is signed for your union by a man named J. B. Foreman, Administrator?

A. Yes.

Q. Who is he?

A. What the book says, J. B. Foreman, Administrator of the affairs of the local union and in behalf of United Stone and Allied Products Workers of America.

Q. Where is he from?

A. West Virginia.

Q. Was he employed by you?

A. Employed by United Stone and Allied Products Workers of

On page 11. Lines 1 through 25.

America.

Q. Had full authority to work for you?

A. Yes, sir.

Q. Is he here this morning?
A. No, sir.

Q. Administrator is something like executor?
A. I wouldn't say that.

Q. You have heard of an administrator being appointed for somebody dead?
A. Yes, sir.

Q. Your union was as dead as a doornail?
A. No.

Q. How many members did it have when this contract was negotiated by you and Mr. Foreman? So far as you are concerned we had none. You had them all.
A. We had a majority.

Q. Do you have the list you had?
A. I don't have them in my possession.

Q. Where are they?
A. I presume the company has checkoff list.

Q. The company kept your union record?
A. They have a record of checkoff and wouldn't have checked the dues off had they not been members.

Q. You, received notice of the United Mine Workers that they represented a majority of the workers?

On page 12. Lines 1 and 2, lines 6 through 17, and lines 20 through 25.

A. I don't recall. I don't dispute it.

Q. You know United Mine Workers had most of the members?

* * *

Q. Why did you appoint an administrator to come down and take over the affairs of your union?

A. They were a disgruntled group, causing a fuss, and under the terms of the constitution the executive board reserved that right.

Q. Your union was just about shot?

A. No.

Q. Every agreement that you ever had with Tungsten Mining Corporation up to this alleged agreement of January 15, 1953, which you say was entered into sometime in December, every one of those agreements was signed by a committee of local employees except this last one?

A. That's right.

* * *

Q. Why didn't any local employee sign this?

A. The Administrator has power to act for the local union, the International, officer of local unit, and therefore gave him power to do anything the local unit could do for stipulated time.

Q. He has so much power he can act in disregard of the wishes of local people.

On page 13. Line 1, lines 8 through 15.

A. He has power to act for local unit.

* * *

THE COURT: You asked him the question whether this man had the right to sign it regardless of the wishes of the members of the union?

MR. MAUPIN: Yes, sir.

A. My answer is yes, he has the right under the appointment as administrator.

Q. The administrator is all powerful in that local union?

A. For the duration of his reign.

* * *

On page 14. Lines 1 through 3.

Q. You say you were bargaining agent and Mr. Foreman was bargaining agent. What bargaining did you do with Mr. Long and Mr. Sweet?

A. I said Stone Workers were bargaining agent.

* * *

On page 15. Lines 13 through 16.

* * *

Q. You and Mr. Sweet and Mr. Long went to New York?

A. Mr. Long was in New York. I don't know whether Mr. Sweet was there on other business but I went to New York to meet our attorney with Mr. Long.

On page 16. Lines 3 through 6, lines 11 through 16, and lines 20 through 24.

* * *

Q. You say you there entered into negotiations for the contract?

A. No. We mentioned the contract, as to whether we could go into the terms of the contract and negotiations on the contract with the administrator.

* * *

Q. Who represented the workers?

A. J. B. Foreman and Sam Scott.

Q. Did you have a lawyer?

A. Yes, representing Mine Workers.

Q. What is the lawyer's name from Boston?

A. Sam Angoff.

* * *

Q. What rate of increase did the lawyers agree on?

A. They didn't agree on any increase. The length of the contract, the anniversary date of the contract which would come up January 15, 1953 was discussed, but wages worked out in the Tungsten office in Tungsten.

* * *

On page 17. Line 12, lines 14 and 15, and lines 18 through 25.

* * *

Q. Who paid your expenses to New York?

* * *

A. The United Stone and Allied Products Workers of America paid my expenses.

* * *

Q. While you were in the Astor Hotel in New York was one word said about the wage scale to go into this new contract?

A. I don't know that there was not and I don't know that there was. I know that nothing definitely was settled on it. Whether they said they would give a quarter of fifteen cents or twelve and a half cents I don't recall, but we did agree that negotiation of wages would be carried on at the Tungsten office or any other matters pertaining to contract.

* * *

On page 18. Line 25.

* * *

Q. Did a crisis exist in your union at Tungsten mine in the fall of '52?

On page 19. Lines 1 through 7, and lines 15 through 25.

A. Our international executive board felt it advisable to appoint an administrator.

Q. Things were so bad you had to send somebody to reign over the situation?

A. Administer over it, yes.

Q. With full power and authority to do anything.

* * *

Q. You knew at that time when you sent the administrator down there that the defendant in this case, or someone,

some other union had seventy-five or eighty percent of the employees signed up with them?

A. No, I did not.

Q. You had been told that?

A. I had no proof of it.

Q. Had you attempted to get any proof of it?

A. I had.

Q. Had you applied to the International Labor Relations Board to obtain proof for you?

On page 20. Lines 1 and 2 and lines 14 through 25.

A. No. I thought that was the duty of the organization that was intervening or claiming representation.

* * *

Q. I ask you if in the fall of 1952 George Pendley, Secretary and Treasurer of the Stone Workers, didn't write and tell you not to enter into any kind of a contract or do anything further in connection with Tungsten Mining Corporation?

A. Such a letter came from somebody at the mine but I am not sure whether it was Pendley or not.

Q. Pendley signed it?

A. I am not sure.

Q. You went to a meeting of the workers about that time and they booed you right out of the ball park?

A. No, sir.

Q. There was some booing done?

On page 21. Lines 1 through 18 and line 25.

A. Yes, sir.

Q. They apparently didn't want any more of you or your union?

A. No.

Q. How many at the meeting?
A. I would guess two hundred or two hundred and fifty.

Q. And you left the meeting?
A. I'm here. If I hadn't left I wouldn't have been here I don't suppose.

Q. You left as a result of the booing?
A. I left in due time.

Q. That was before the new contract?
A. I think it was.

THE COURT: Was that preparatory to making the contract which was in effect the day of the strike?

A. No, it was during the time of the contract that was in effect at the time of the strike. It was prior to making the contract after the strike took place. It was prior to the strike.

* * *

Q. Were you presiding?

On page 22. Line 1, lines 10 through 23.

A. No.

* * *

Q. It was after that meeting that you and Mr. Foreman ran up to New York to see Mr. Long?

A. It was some time after that. It was after that meeting that Mr. Foreman was appointed administrator. He was international representative of the Stone Workers. I might say we had another representative there and I am not sure which one presided, whether Mr. Foreman or Mr. Workham, but one or the other presided at that meeting.

THE COURT: What did these people do beside heckle you and Mr. Foreman?

A. That was all. The moment we started talking they started hollering.

Q. You could tell that part of the crowd was hostile?
A. Yes. . . .

Testimony of W. L. Long

On page 29. Lines 10 through 12.

* * *

Q. On account of the strike how many days did you lose in production?
A. About ten days.

* * *

On page 46. Lines 8 through 21 and lines 23 through 25.

* * *

Q. You had statement of Mr. Fohl that he had eighty percent signed up?
A. He told Mr. Sweet a substantial majority.

Q. Didn't he tell you he had eighty percent and would be willing to submit it.
A. I haven't seen him.

Q. You didn't call a mediator?
A. No, sir.

Q. You were determined not to deal with United Mine Workers?
A. I was determined not to with anybody unless certified in national labor.

Q. The reason you didn't deal with United Mine Workers was the fact they were not certified by National Labor Board?
A. That was part. . . .

Q. If you had had a hundred percent of your employees with all the signed statements they could bring to your office and they hadn't been certified by National Labor Relations Board you would

On page 47. Lines 1 through 9; lines 12 through 20.

not have dealt with them?

A. Not until decertified. The law requires us to deal with certified union.

Q. Now you say you had a meeting in New York and Mr. Foreman was there, that is the Czar or administrator of the dead union, or whatever kind of a union it was, he was there?

A. Yes.

Q. They told you nobody had to deal with you but Mr. Foreman, the administrator?

* * *

A. Yes.

Q. Then why did you call Sam Scott, the man you had been dealing with six or seven years?

A. To find out what was the legal position with respect to this administrator.

Q. Why was it necessary for Mr. Scott to go to New York if you were going to deal exclusively with Foreman?

A. I didn't decide to deal exclusively with Foreman until I was convinced that was my duty under the law.

* * *

On page 48. Lines 1 through 3, lines 6 through 9, and lines 16 through 25.

. . . Why didn't you call for an election?

A. No occasion to call for one. We had in our possession written statements of our people.

* * *

Q. Mr. Long, will you tell us that there was no discussion in New York about wage schedule you were expecting to enter into?

A. I don't recall any in respect to wage schedule. It was simply a question of the power of the administrator.

* * *

Q. Did you testify in the January 29, 1953 case in this court?

A. Yes.

Q. When did you resume capacity at that mine?

A. It came up gradually. . . . We lost ten days.

Q. What day did you get to normal operations?

A. Mr. Sweet can give you those things.

Q. Did you testify to that when you were here before?

A. Whatever I said there, and I was trying at least to say the truth, and if you will give me the record I will read it to you.

On page 49. Lines 1 through 4, lines 6 through 8, lines 14 through 25.

Best I knew at the time but I can't keep all these things in my head over this long period of time.

Q. You were asked at that time, "Has production been perfected at the mill?" on the 29 of January.

* * *

Q. Your mill never stopped operating?

A. Yes.

Q. How many days?

* * *

BY MR. GREEN:

Q. You had a stock pile?

A. Yes.

Q. You ever exhaust that?

A. I can't answer that but I think we did.

Q. What was your shipping that month in comparison with other months?

A. I don't know.

Q. Don't you know you continued just like if the strike wasn't there?

A. No, we lost a third of the normal production.

Q. I am talking about what you sold.

On page 50. Lines 1 through 10.

A. If we shipped more that month we shipped less the succeeding month. We can't make tungsten unless we grind it out of the rocks.

Q. You could use your stock pile?

A. Yes, sir.

Q. You never exhausted that?

A. I don't think so.

Q. No reason you couldn't go to that pile and keep on running. In your stock pile the only thing happened it depleted the stock pile but never exhausted it?

A. That's my recollection.

* * *

On page 51. Lines 1 through 12 and lines 19 through 21.

Q. Did you have any meetings in Vance Hotel with Mr. Scott during this period?

A. I think I did.

Q. Who was at that meeting?

A. Mr. Foreman, Mr. Scott, Mr. Sweet and myself, Mr. Swan and several men from the mine.

Q. Was that before the New York conference?

A. I think afterward.

Q. If you had full authority to deal with Mr. Foreman why did you have Mr. Pittman and the others there?

A. Because they were our people and who we wanted to satisfy and keep contented.

* * *

Q. You said, "We had them there because they were employees". Who were you talking about when you said "We had them there"?

A. I can't answer.

* * *

On page 52. Lines 18 through 25.

* * *

Q. Have another meeting in December, 1952?

A. Yes, sir.

Q. How many?

A. Two I know in my office. I think they had several with Mr. Sweet.

Q. The two in your office I will confine my remarks to. Who was present at those meetings?

A. Mr. Sweet, Mr. Bailey, myself, Foreman, Swan, Martin and Pittman.

On page 53. Line 1, and lines 20 through 25.

* * *

Q. Were you furnished a resolution in November and informed by the United Stone Workers that a crisis existed at your mill in respect to the labor situation?

A. I don't know to what you refer. Are you referring to Mr. Pendley?

Q. I will show it to you.

On page 54. Line 1, lines 3 through 6.

A. Yes, I was notified of that.

* * *

A. I was notified of the appointment of Mr. Foreman as administrator. I was given a copy of that resolution I think.

THE COURT: What is the date?

A. November 13, 1952.

* * *

Q. Did you post any notice on the board if they had any complaints and wanted a new election you would assist them in getting it?

A. No.

Q. You were aware United Mine Workers couldn't call an election?

On page 55. Lines 1 through 24.

A. I had knowledge they were trying to take over, but no success.

Q. You were informed they had eighty percent?

A. No. Mr. Sweet told me Mr. Fohl said they had the majority.

Q. Where were you on the afternoon of January 6, 1953 about three o'clock?

A. In Winston-Salem, National Labor Relations Board.

Q. Did you confer with Mr. Scott that day?

A. No, sir.

Q. The strike hadn't started. What were you doing there?

A. To talk with them about this siutation. We had heard they were going to strike January 15. I wanted to consult with them as to what we should do and how we should conduct ourselves. That is where I was when this strike took place, the time of the discharge of Holloman.

Q. Why did the strike take place on the 9 day of January?

A. I know they said they struck because of the discharge of Holloman.

Q. And who else?

A. Also struck for recognition of the union.

Q. Holloman and who else?

A. Knight.

Q. Were Holloman and Knight fired the day you were in Winston-Salem?

A. Yes.

* * *

On page 56. Line 25.

* * *

Q. You were expecting trouble and by firing the two men they had

On page 57. Lines 1 through 7 and line 18.

mussed up the plans.

A. I didn't want a strike. I didn't want then or any other day until I am dead for any man to be fired if it looks like it drawn inference he is being fired because of some labor activity on his part.

Q. Holloman was president?

A. They said he was.

. . . He had told them three times. . . .

* * *

On page 58. Lines 1 through 10 and lines 13 through 17.

CROSS EXAMINATION OF MR. W. L. LONG IS RESUMED:

Q. Mr. Long, during your examination yesterday something was said about having difficulty with some men who threatened you or assaulted you in some way, inviting you out of the car.

A. Yes.

Q. Who was that?

A. Charlie Brown.

Q. Your employee?

A. No, sir.

Q. You know for whom he worked?

* * *

A. I found he worked for Utah Construction Company.

Q. Did he assault you?
A. No, sir.

Q. You have any trouble with anyone else?
A. No.

* * *

On page 60. Lines 5 through 15 and lines 24 and 25.

* * *

Q. Paying dividends during those years?
A. No, sir.

Q. Ever pay any?
A. Yes, sir.

Q. Pay any during the year 1952?
A. No.

Q. In 1953?
A. No.

Q. Had you ever paid any up to that time?
A. No.

Q. Was the mill ever closed down?

* * *

Q. I believe you testified on the 29 day of January you had arrived at normal production in the mill. Is that correct?

On page 61. Lines 1 and 2, lines 6 through 11, and lines 22 through 25.

A. We had arrived at full operation. I don't recall whether we had arrived at normal production.

. . . Yes, sir. I said we had been operating the mill at normal production but the mine had been slowly getting back to production and "has not reached production from rock underground."

Q. And you had never completely consumed your stock pile?

A. That is my recollection.

* * *

RE-CROSS EXAMINATION OF MR. W. L. LONG:

Q. This matter was brought to the attention of the assistant manager and the assistant manager told them "So far as I know you are fired"?

A. That's true.

Testimony of C. R. Williams

On page 63. Lines 15 through 21.

* * *

Q. What union?

OBJECTION BY DEFENDANT OVERRULED.

THE COURT: You say they were represented to you as representatives of the striking crowd. Who represented them?

A. The pickets told us that.

Q. You don't know who they were?

A. No, sir, just a crowd of men picketing the front gate.

* * *

On page 73. Lines 12 through 19.

* * *

CROSS EXAMINATION OF CAPT. C. R. WILLIAMS BY MR. GREEN:

Q. Captain, you saw Mr. Wood and Mr. Robinson at the mine on this particular night when you first got there?

A. A Short while after I got there.

Q. And you solicited their aid and support in maintaining order?

A. Yes, sir.

Q. They cooperated with you in every way?
A. Yes, sir.

* * *

Testimony of James R. Sweet

On page 99. Lines 22 through 25.

* * *

CROSS EXAMINATION OF MR. JAS. R. SWEET BY MR. ARENDELL:

Q. Mr. Sweet, the contract between you and your company and Stone Workers in existence during the fall of 1952 contained a sixty day clause didn't it by which you or the union could terminate

On page 100. Lines 1 through 25.

the contract on sixty days notice?
A. Yes, sir.

Q. That contract to expire at midnight January 14, 1953.
A. I am not certain. I think it was January 15, 1953.

Q. And if either you or the union desired another contract all you had to do was to give the other sixty days notice you didn't want to renew it another year from January 15, 1953?
A. I think that's right.

Q. Now, you testified that on October 16, 1952 Messrs. Fohl, Shuey and Wood came to see you at your office on the mill property.
A. Yes, sir.

Q. And Mr. Fohl said, "This is a courtesy call".
A. That's right.

Q. And they were courteous during your interview?
A. That's right.

Q. And they told you they had a substantial majority of your employees signed up in the United Mine Workers, District 50?

A. Yes, sir. I am not so sure about the word "substantial" but they certainly used the word "majority".

Q. Did you ask to see the cards by which they claimed a majority of signups?

A. No, and neither did he show them to me.

Q. He explained to you that District 50 didn't use the facilities of the National Labor Relations Board?

A. Said they would not.

On page 101. Lines 1 through 21.

Q. And you knew why?

A. I had a general understanding why they wouldn't as of that time.

Q. During that conference on October 16 Mr. Fohl, or Mr. Shuey, or Mr. Wood suggested to you that in order to determine that majority they would be perfectly willing, not using the National Labor Relations Board procedure, to leave it with a federal mediator or state conciliator of state labor.

A. They advised me they could use either one.

Q. Did you take them up on either one?

A. No, sir.

Q. Did they suggest to you a third course, that you could get a committee of ministers of the Gospel and determine whether or not they had a majority signed up?

A. I don't recall whether they did or not.

Q. Your socalled checkoffs which you had in your possession from your employees were for the life of your bargaining contract only, is that right?

A. I would say they were in existence then and were current and I recognized them as being checkoff members of the union at that time.

On page 102. Lines 2 through 7 and lines 14 through 16.

* * *

Q. You didn't inquire as to whether or not these gentlemen had the withdrawals of those checkoffs signed by your employees, a majority of them?

A. No, I didn't.

Q. You testified they could withdraw them at any time?

A. Yes, that's right.

* * *

Q. And you were unwilling to take any steps towards de-certification of Stone Workers regardless of the wishes of your workers?

A. The question didn't arise.

Q. Didn't it arise when these gentlemen told you they had a majority?

A. I didn't believe they were properly informed. . . .

One page 103. Lines 3 through 25.

* * *

Q. Following your conference with those gentlemen you had an exchange of letters with Mr. Fohl?

A. That's right.

Q. And you identified those letters this morning?

A. Yes, sir.

Q. October 16 was more than sixty days from January 15, 1953, wasn't it?

A. That's right.

THE COURT: Was that the date of the visit of Mr. Fohl and the other two?

MR. ARENDELL: Yes, sir, October 16.

Q. The day after this conference of Messrs. Fohl, Shuey and Wood in your office, October 16, 1952, Mr. Fohl wrote you a letter which you identified?

A. That's right.

Q. And in that letter didn't he say this: "Mr. Sweet, kindly be advised that a substantial majority of your production and maintenance workers are members of United Mine Workers of America and we are herewith requesting conference with you for the purpose of discussing the matters relative thereto, as well as wages, hours and working conditions. This also confirms a personal visit of_____ I would appreciate receiving from you any suggestions leading towards an amicable solution and settlement

On page 104. Lines 1 through 8.

of all issues involved. Fraternally yours, Robert R. Fohl." You got that letter?

A. Yes, sir.

Q. You consulted with Mr. Long about this visit of October 16 and this letter of October 17?

A. Yes.

Q. You considered Mr. Long your immediate superior?

A. Yes.

* * *

On page 105. Lines 5 through 15.

Q. After conferring with Mr. Long you wrote a letter on October 21, 1952 addressed to Mr. Fohl in which you stated, "I have your letter of the 17th and beg to advise that I can see no basis for any conference between us. After the election United Stone and Allied Products Workers of America was certified to us by the National Labor Relations Board as bargaining agent for our employees. This certification has never been rescinded and we will continue to recognize it until some other bargaining agent has been properly certified to us after another election duly held under the National Labor Relations Act. Yours very truly."

A. Yes, sir.

* * *

Q. On that date, October 21, 1952 you posted notice notifying your employees, posted it on the bulletin boards and put it in the pay envelopes, that United Mine Workers had written you they had a majority of members and requested conference and told them you declined to meet with them, "and will not meet with them or any other union to discuss these matters until—" (Counsel reads "P-10")

On page 106. Lines 1 and 2, lines 4 through 9.

You put that on the bulletin board and gave a copy to each employee?

A. I did.

Q. But you were never willing for a secret ballot to be taken to test whether or not majority of your employees wanted Stone Workers or District 50?

A. That's right.

Q. And you stuck to that position?

A. Yes.

* * *

On page 107. Lines 21 through 25.

* * *

Q. What date was it that you and Mr. Long and Mr. Sam Scott, Mr. J. B. Foreman and the Boston union lawyer were in New York?

A. What particular day it was I don't recall. I was up there at a stockholders meeting in the early part of December.

Q. It was before the 18 of December?

On page 108. Lines 1 through 5 and lines 17 through 25.

A. Yes, sir.

Q. And in that conversation, which I believe you or Mr. Long stated was held in the Astor Hotel, there was

present the Boston lawyer for Stone Workers, Mr. Long, you, Mr. Scott and Mr. Foreman.

A. Yes, I believe that is right.

* * *

Q. When you left New York and closed the conference were you satisfied the administrator could act for International, Stone Workers?

A. Yes.

Q. Anything else discussed in New York at that meeting?

A. May have discussed with Mr. Scott the question of vacations which had been carried over from the meeting or negotiation in May, 1952.

Q. Anything else discussed at the meeting?

On page 109. Lines 1 through 3 and lines 6 through 25.

A. Not that I recall.

Q. What about wages?

A. No, sir.

* * *

Q. Now, Mr. Sweet, on or about November 14, 1952 did you get a letter from George W. Pendley, Recording Secretary Local Branch 98 of Stone Workers, asking you not to enter into the new Contract with Stone Workers?

A. I received a letter, I think. Was that addressed to me?

Q. You identified it this morning, or a copy of it.

A. I think so.

Q. Did you get a registered letter November 14 from Mr. Pendley, of which this is a copy?

A. Yes, I recognize the letter and I presume I got it in due course of mail about November 14.

The letter dated November 13, 1952 is identified as "D-1"

Q. Mr. Pendley was one of your employees?
A. Yes, sir.

Q. This letter was signed by three other of your employees wasn't it?
A. Signed by three, I think all employees of the company.

THE COURT: Did you reply to this letter?

A. No, sir.

Q. Did you know Pendley?
A. I knew Pendley. I didn't know him as the official Pendley.

Q. Ever hear he was recording secretary of the Local?
A. No, sir. I had no advice to that effect.

Q. Did the other employees sign as officials?

MR. ARENDELL: No, sir, they just signed as employees. We don't have the original. The letter in question from Mr. Pendley was signed by Cordell Holloman, Paul D. Gentry and R. H. Harris.

THE COURT: You knew Mr. Holloman?

A. Yes, sir.

Q. Know him as an official of the Local?
A. No, sir.

Q. Is he the one who was president?
A. He was elected president but I didn't ever know him as an official of Stone Workers.

* * *

BY MR. ARENDELL:

Q. After receiving this letter on November 14, 1952 signed by George W. Pendley, Recording Secretary Local

98 of Stone Workers, the next day did you receive a letter from J. B. Foreman, or the

On page 111. Lines 1 through 13 and line 25.

day after, on Stone Workers stationery?

A. Yes, sir.

Q. Do you have a letter like that?

A. I received the letter. I don't have the letter here.

Q. Copy of letter from J. B. Foreman dated November 14, 1952 addressed to Tungsten Mining Corporation is marked for identification "D-2"

Q. Within the course of 48 hours you received a letter from George W. Pendley notifying your company not to renew this contract and another letter from J. B. Foreman, Administrator of the Union, asking you not to renew the contract but to make some major changes in it?

A. Yes, sir.

* * *

Q. Mr. George Pendley wrote you as recording secretary not to

On page 112. Lines 1 through 4.

renew any contracts?

A. Yes, sir.

Q. Was Mr. Card an employee of yours?

A. Later made a shipping boss.

On page 113. Lines 1 and 2.

Q. You did nothing up to this point to test out whether or not Mr. Fohl's claim of having a majority for District 50 was true?

* * *

On page 114-A. Lines 2 through 12.

* * *

Q. Will you deny on January 9, 1953 that you knew Holloman was president and Jimmie Knight was secretary of the new Local?

A. I don't know whether I knew it or not on January 9.

THE COURT: When you say "know" what do you mean?

Q. Had you heard that Holloman was president and Knight was secretary of that new Local?

OBJECTION BY PLAINTIFF.

THE COURT: Had you heard it on January 9 that Holloman was president and Knight was recording secretary?

A. Best of my impression I think I would have to answer yes. . . .

On page 118. Lines 15 through 25.

* * *

Q. You have every detail fixed in your mind as to this incident when those two men were fired.

A. Report submitted to me sometime or other and after the incident by the mine superintendent.

Q. You have a censor over there. When did you first know that Roberts, or whoever it was, had fired Holloman and Knight?

A. Some time Friday evening. The evening of January 9.

Q. Where were you?

A. I was in Raleigh I believe when advised indirectly by phone that there was a strike at the mine. I was with Mr. Long and we went out to the mine and there one way or another I was given

On page 119. Lines 1 through 3 and lines 21 through 25.

information in regard to the strike.

Q. About nine o'clock at night?
A. Nine or half past eight.

* * *

Q. Where did you and Mr. Long get the idea there was going to be a strike on January 15?
A. I heard there was going to be a strike on the 14 of January, on the 15th, but I was going to have a delegation of United Mine Workers come to see me and tell me if I didn't go along with them

On page 120. Lines 1 and 2.

they were going to strike, and I had rumor of a strike in November and December, up until there was a strike.

* * *

On page 123. Lines 13 through 25.

* * *

Q. In your complaint you said you had suffered damages for failure to produce and deliver Tungsten to your customers and depletion of stock pile in at least the sum of $200,000.00?
A. That's right.

Q. You have reduced that down about $110,000?
A. $83,000.00.

Q. Does your $117,000 include these extra items, $27,031.76?
A. Yes.

Q. In your complaint your damages for failure to produce and deliver Tungsten you set at $200,000 and you add to that the $27,000?
A. That's right.

Q. So instead of $200,000 you revise that to 90,000?

On page 124. Line 1.

A. Yes, sir.

* * *

On page 125. Lines 7 and 8.

* * *

Q. So you never completely exhausted your stock pile?
A. That's right.

* * *

On page 128. Lines 5 through 16.

* * *

Q. Now with regard to the items which make up $72,031.76. You have alleged damages against this defendant of $12,420.96 for hire of guards on a decreasing scale through June, 1953.
A. Yes.

Q. The strike ended on February 3, 1953 with the posting of the injunction issued out of this Court?
A. That's right.

Q. And District 50 left, so far as you know, and the strike stopped.
A. The notice was posted and the Court handed down its decision.

Q. The strike stopped February 3?
A. Yes.

On page 133. Lines 9 through 14 and lines 24 and 25.

* * *

Q. Did you ever request state or county authorities for police protection during the strike?
A. We asked State Patrol for protection to keep the roads open.

Q. Ask state or county authorities for police protection to your property?
A. No.

* * *

Q. When Judge Williams signed his restraining order on January 14 and it was posted out there he didn't have but six by the gate?

On page 134. Lines 1 through 4.

A. 100 feet from the gate.

Q. They observed that section of the restraining order and got 100 feet away all but the six?

A. Yes.

* * *

On page 136. Lines 23 through 25.

* * *

Q. These damages you paid for the employees' cars was voluntary act?

A. Some of them damaged in our parking lots and they came to us

On page 137. Lines 1 through 8 and lines 22 through 25.

and asked us if we could pay for those cars that were damaged during the course of this strike.

Q. You did that voluntarily?

A. Yes.

Q. Nobody forced you to?

A. No. We were not forced by any agency to do it.

Q. Did you see them damaged?

A. No, I did not.

* * *

THE COURT: I believe I would have to eliminate that. I would say eliminating pay to guards after the strike was over, I am not sure about the others, but eliminating everything but the time when the strike was in progress, hiring of guards, maintenance of

On page 138. Lines 1 through 9.

guard house, purchase of pistols and holsters, less the value of them now, bus fares, taxi fares, photography of strikers, spot radio announcer, newspaper advertisement,

those items, and also maintaining home office in Henderson, payment to Utah, additional office help, increase in payroll taxes and compensation insurance, made necessary by guards, etc., certainly for the duration of the strike. I would think miscellaneous expense would have to be itemized, but generally speaking I think those things I mentioned would be recoverable items.

* * *

On page 142. Lines 1 through 4.

Q. Did you ever know of any District 50 representative advising or requesting some Utah Construction workers not to go across there and work?

A. No.

* * *

On page 143. Lines 23 through 25.

* * *

Q. . . . Did you ask for or receive from the state or Vance County any police protection for your own property?

On page 144. Line 1.

A. No.

* * *

On page 145. Lines 21 through 24.

* * *

THE COURT: On January 10 were they working full time?

A. No, sir.

Q. Up until the time of the strike?

A. Yes, sir.

* * *

On page 150. Line 25.

* * *

Q. Is there anything in the contract which requires you to pay

On page 151. Lines 1 through 4.

to Utah any sums of money because of their not working, which condition is attributable to strikes on the part of your employees?

A. I don't think you will find that specifically stated in the contract. . . .

* * *

On page 152. Lines 1 through 3 and lines 18 through 21.

A. The gates were open all the time.

Q. And Utah people could have come through if they had wanted to during the strike?

* * *

Q. Tell us one instance when an employee of Utah had any trouble in attempting to go to work?

A. To the best of my knowledge they didn't have any trouble and didn't go to work until we had it in order.

* * *

On page 155. Lines 18 through 25.

* * *

MOTION BY DEFENANT TO STRIKE ALL TESTIMONY IN REGARD TO THE UTAH CLAIM. THE MOTION IS DENIED.

THE COURT: You say you don't know whether Utah paid these men for the same time you paid them for?

A. Yes, sir.

Q. You paid Utah. You don't know whether they paid the men or not?

A. No, sir. Say a man kept on the job ten days and no

On page 156. Lines 1 through 4.

work. I don't know whether they paid each individual man full scale those ten days. I talked to the man and asked him what he was doing during this period of time and his reply, "I don't know."

* * *

On page 158. Lines 22 and 23.

* * *

Q. You paid Utah employees for the time they didn't work?

A. Yes.

* * *

On page 160. Line 25.

* * *

Q. . . . Do you have for us the figures

On page 161. Lines 1 through 19.

you were requested yesterday to bring this morning, the units you produced during the calendar year 1952 and the first two months of 1953?

A. You want January, 1952?

Q. Yes, the units.

A. January, 5142.90; February 5504.11; March 5053.04; April 4971.58; May 5651.80; June 5214.82; July 6023.05; August 5480.31; September 6687.46; October 7502.89; November 7586.95; December 10,138.41; January, 1953, 7471.14; February, 1953, 9452.64.

Q. Now let's have your income for those months, the net income.

A. After depreciation and depletions?

Q. Yes.

A. January, 1952, $19,878.58. I might state that the provision for Federal and State income taxes must necessarily be an estimated figure. February, $33,740.70; March $24,350.51; April, $17,751.23; May $29,850.49; June $25,231.19; July $39,450.74; August $27,096.03; September $40,872.17; October $45,388.19; November $30,396.19; December $78,457.91; January, 1953 $33,559.22; February, 1953 $48,653.99.

* * *

On page 163. Lines 23 through 25.

* * *

Q. For a week you didn't produce any from the mine but used what you had surplus in the mill?

A. The hoisting at the mine from January 10 to the 16th inclusive

On page 164. Line 1 and lines 13 through 20.

my record shows we didn't hoist any tons at all.

* * *

Q. Is this statement correct and was it correct on January 29, 1953 that you were "operating the mill at normal production but the mine has been slowly coming back up and has not reached production from rock underground"?

A. During the latter part of January there were days we had reached a normal, if you want to call it, or near normal rate of production, but there was other work that was not done in the mill at that time which had to be done in later months.

* * *

On page 168. Lines 17 through 25.

* * *

Q. Now, Mr. Sweet, your depletion allowance in 1952 and the first part of 1953 was fifteen percent. You got that by way of tax reduction.

A. I think we took off fifteen percent.

Q. In charging the $90,000 alleged damages against the defendant you have taken that in consideration as profit?

A. We took the gross revenue for six months and deducted operating expenses.

Q. Including the 15% depletion allowance?

On page 169. Line 1 and lines 20 through 25.

A. Yes, sir.

* * *

Q. Was there any limitation on the amount you could produce with the protection of that guaranteed price?

A. Nothing that would become operative within that period of time.

Q. That guaranteed price was to expire in 1958, or when you reached so many units, whichever came earlier?

On page 170. Lines 1 through 5.

A. Yes, three million units.

Q. You haven't reached the maximum number of units?

A. No.

Q. When will you reach it?

A. My estimate is sometime the middle of this year.

* * *

On page 171. Lines 1 through 7.

Q. Did you refuse to hire any of your employees back when they presented themselves after the strike?

A. There may have been some of the employees we refused to take on.

Q. But after you got your full complement following the strike there were a great many more new ones than there were old ones?

A. Yes.

* * *

On page 178. Lines 1 through 13.

RE-CROSS EXAMINATION OF MR. J. S. R. SWEET:

Q. You stated that you produced in January, 1953 7471 units. In February you produced 9452 units.

A. Yes.

Q. In March you produced 10,519 units?

A. Yes.

Q. How many in April?

A. 11,255.73.

Q. That was the most ever, most units ever produced in the history?

A. Yes.

Q. And the next highest in the history of the company was March, 1953, 10,519?

A. I think that exceeds December.

* * *

Testimony of W. L. Long

On page 181. Lines 3 through 11 and lines 16 through 25.

* * *

Q. Mr. Sweet has been questioned about the situation with regard to Utah Construction Company and arrangements you had. Will you explain that to the Court, what happened during the strike, and why their laborers were kept on and paid by you?

A. I was very insistent that Utah Construction Company go on with their work. I was very much disappointed that they didn't go ahead and work, so much so I got very vehement about it. I told Mr. Laird I thought he ought to go ahead and do the work or cancel the contract.

* * *

A. I did my best to get them to continue their work notwithstanding the strike. They refused because the men didn't want to cross the picket line and were afraid to go to work. I finally decided the better thing to do was let them stand by and we pay the cost rather than cancel the contract and go to the expense of re-assembling these people from all over the world. We pay the cost so they could stand by and later go to work. He would minimize the cost as much as he could.

Q. That is what you did?

A. Yes, sir.

On page 182. Lines 17 through 25.

* * *

OBJECTION BY DEFENDANT OVERRULED.

. . . I don't care anything about this Utah thing. Throw it out. The thing is we were unlawfully interfered with in the prosecution of our work and we suffered damage. I don't care anything about how much damage. I want our rights vindicated and want unions to know they can't come in and cause strikes and go scot free when there is a solemn contract.

RE-CROSS EXAMINATION BY MR. GREEN:

Q. You say you are not here in this lawsuit to get damage but

On page 183. Lines 1 through 9.

vindication?

A. I want to get some damages to show your client engaged in an unlawful action and caused us the damage but the amount I am not concerned with.

Q. You are willing to throw Utah Construction Company out of the window and forget about it?

A. Yes.

Q. That is what you say?

A. Yes.

* * *

On page 184. Lines 16 and 17.

* * *

Q. You don't know what this te, thousand dollars represents?

A. No, I don't.

* * *

Testimony of B. B. Bailey

On page 186. Lines 17 through 23.

* * *

CROSS EXAMINATION OF MR. B. B. BAILEY BY MR. MAUPIN:

Q. You say a man named Williamson struck you?

A. Yes, sir.

Q. He was at that time an employee of Utah Construction Company?

A. I couldn't say.

Q. He was not an employee of the mine?

A. He was not.

* * *

On page 187. Lines 18 through 20.

* * *

Q. You saw him more than one time after he was pointed out to you?

A. I wouldn't swear to that.

* * *

Testimony of L. R. McClelland

On page 191. Lines 9 through 18.

* * *

CROSS-EXAMINATION OF MR. L. R. McCLELLAND: BY MR. GREEN:

Q. What day of the month are you talking about?

A. January 9.

Q. Do you know why they were striking?

A. Nothing more than I heard them talking.

Q. Did you know about the two boys being dismissed that day?

A. Not until I went up there I didn't.

Q. Hear them talking about that?

A. Yes, heard them say that was why the strike was pulled that evening.

* * *

Testimony of Robert R. Fohl

On page 192. Lines 2 through 25.

* * *

DIRECT EXAMINATION BY MR. MAUPIN:

Q. State your name and address.

A. Robert R. Fohl, 5701 Bromley Lane, Richmond, Virginia, Regional Director Region 19, District 50.

Q. Did you hold that position in the fall and winter of 1952 and '53?

A. I did.

Q. During the year 1952 were you approached by any employees or employer of Tungsten Mining Corporation with the idea of forming a union in that corporation?

A. I personally was not contacted but representatives of our organization were contacted by an employee acting for the employees of that company.

Q. As a result of that contact was any effort made to organize the workers of Tungsten Mining Corporation?

A. Yes.

Q. What was done?

A. Actually I was attending Mine Workers convention in Cincinnati and Frank Lumpkin, official secretary of the local at Hercules Powder was a relative of Cordell Holloman, had visited him, and told him what union they had. Apparently the men felt they would like to change and—

OBJECTION BY PLAINTIFF OVERRULED.

he contacted Mr. Lumpkin and found out about Mr. Shuey who certified

On page 193. Lines 1 through 25.

Mr. Lumpkins' local.

Q. Who is he?

A. Secretary and treasurer of Hercules Powder at Hopewell. Mr. Shuey contacted Mr. Holloman, found it

to be true, visited his home in North Carolina; gave Mr. Holloman application cards and from there on the efforts of the employees were on their own to carry out what they wished in that regard.

Q. As a result of this effort were any application cards ever delivered to you?

A. Yes, they were.

Q. Were those application cards application for membership in District 50?

A. They were.

Q. Did they also contain a checkoff authorization?

A. Combination membership and checkoff cards.

Q. At the same time were there also delivered to you certain slips reading as follows: "I hereby wish to sever all relations with United Stone and Allied Products Workers of America and request it no longer be the certified bargaining agent at Tungsten Mining Corporation, Tungsten, North Carolina"?

A. They were along with two additional slips at the top of that type of card you just read.

Q. What was the nature of those other slips?

A. To revoke checkoff cards of the existing union then in the plant.

On page 194. Lines 1 through 5 and lines 23 through 25.

Q. What was the existing union in the plant?

A. Stone Workers.

Q. Did you furnish Stone Workers with a copy of those cards?

A. We had them available for either them or the company. If they had told us that would have resolved the situation.

* * *

BY MR. MAUPIN:

Q. Was it your information that only employees signed these cards?

OBJECTION BY PLAINTIFF OVERRULED.

On page 195. Lines 1 through 25.

A. Yes, sir.

MR. MAUPIN: They were present and available to be checked by anybody in the fall of 1952.

Q. Will you identify these?

A. Yes, sir, they are the cards we had available at the time we were asking the company to recognize this organization.

The cards just identified are marked for identification "D-5".

Q. What is this?

A. Statement by the workers who were members of Stone Workers, and I might say the reason for the difference, 269, there were many people who signed our membership cards who were not members but those who were members also signed these and made statement, "I hereby wish to sever all relations with United Stone and Allied Products Workers".

OBJECTION BY PLAINTIFF.

Q. Just say in effect what that bunch purports to be?

A. Severing of relations with Stone Workers.

Q. Were they available to Mr. Sweet or other officials of the company in October?

A. Yes, sir.

Q. Did you tell Mr. Sweet he could call on a committee of ministers, or labor conciliator of North Carolina, or mediator to examine these checkoffs?

A. I did. I am not sure of the date but the day we called on Mr. Sweet, which I believe was the 16th. Mr. Shuey and I came down

On page 196. Lines 1 through 25.

from Richmond and Hopewell and called on Mr. Holloman at his house, knowing it was arriving at the sixty day notice you should give a company not to renew a contract, if the men wanted some assistance we would like to find it out, and we called on him at his home. We went from Mr. Holloman's house. Mr. Shuey, Mr. Wood and I and said we will call on Mr. Sweet directly, sit down and try to explain the situation, how we operate and how we go about solving this problem. Mr. Holloman didn't go with us but we had his cards with us. We called on the mine office and asked if Mr. Sweet was in. I believe at the time we didn't possibly identify ourselves. He came out and greeted us. We introduced ourselves. He asked us in his office. I think as Mr. Sweet testified, the first thing I usually tell a gentleman is it is a courtesy call, and we did in that instance, and that the meeting with him was entirely to explain our position, many avenues to resolve in his mind, that we represented them, we didn't want to waste his time, that we did have a very substantial majority, practically everybody in the mine signed up. Told him in many instances in North Carolina we are continually organizing and facing these problems, what the company will do has to be voluntarily, use the North Carolina Department of Industry. We have used them many times. He could check the cards. We preferred an impartial man do it. We didn't want any of our people to be discharged. We told him it could be the North Carolina State Department of Labor and Industry. We said it could be some ministers, and outlined the procedure he

On page 197. Lines 1 through 10 and lines 21 through 25.

could go about to verify the cards we told him we had in our possession. Mr. Sweet,—I don't think we could have expected him to have said too much at that stage,—we didn't advise him we were coming ahead of time and he didn't indicate one way or another what he would do. I told him we were anxious to meet, our time was at his disposal, that I would confirm our visit by letter the next day, which I did, and that we held ourselves in readiness to present positive proof that those people wanted our organization.

Q. Did you have positive proof?
A. Yes, sir, we definitely did.

* * *

. . . We had practically everybody in that plant signed from the indication we had of the number of people working.

BY MR. MAUPIN:

Q. Why didn't you give those to Mr. Sweet?

On page 198. Lines 1 through 25.

A. We don't and the company doesn't expect us to hand the cards to them. It is usually done through a disinterested person.

THE COURT: It is perfectly understandable to me.

Q. You say there was a third set of cards?
A. Yes, sir.

Q. What did they indicate?
A. A mimeograph in three sections, one to the CIO Union and one to Tungsten Mining Corporation. They were notices to both of those people cancelling the checkoff card then in effect.

Q. Did you subsequently furnish C.I.O. Union with their part of that sheet?

A. If I can explain it. Usually when we reach a point where we are trying to work out the question who is the union, sometime the company may ask and raise this question, that is that they have checkoff cards. If they will say that is all troubling them we have available the withdrawals of the checkoff cards. We were just as reluctant to present them,—we think they could be discharged from them. After the stoppage of these workers from these discharges and consulting with the workers they felt any reason for discharge has evaporated and ask to go ahead and send them in. I think eight or ten may have gone in the plant and the others had said send them on in anyway.

Q. What did you finally do with the other union cards?

A. They were sent both to Stone Workers and to the company.

Q. What is that?

On page 199. Lines 1 through 25.

A. The withdrawals of the checkoffs while the stoppage by the workers was in progress. There were separate slips, both of them identical in looks to those white slips. These were the members of Stone Workers that signed those withdrawals and checkoff cards, copy of the withdrawals, one set sent to C.I.O. and one set sent to Tungsten Mining Company.

THE COURT: When?

A. During the progress of the stoppage.

Q. After the strike?

A. Yes, sir, but for the reasons I outlined.

BY MR. MAUPIN:

Q. Had you furnished the company and C.I.O. a list of the employees with their badge number who had signed these white slips?

A. Yes, sir. That list you have is a list of the withdrawal slips that went to both the company and Stone Workers and was notarized.

Q. Is this a copy of the notarization?

A. Yes, sir.

Severence cards marked for identification "D-5".

List of workers signing withdrawal slips marked for identification "D-6".

Q. When did you first hear of the strike at Tungsten Mining Corporation?

A. It was late the night of January 9 that I had heard that a strike had occurred at that plant.

On page 200. Lines 1 through 25.

Q. Who informed you?

A. I think it was Mr. Wood.

Q. Did you have anything to do with the calling of the strike?

A. Absolutely none.

Q. Did you know it was going to be called?

A. I did not.

Q. Have you ever authorized or suggested or urged such a thing?

A. No, sir.

Q. Did you ever authorize anybody under you and in your employ to go there and start a strike?

A. To the contrary when we heard the two men had been discharged I advised them there should be no strike and

advised the men involved to handle it with the company who had contract until January 15 to run.

THE COURT: Didn't Mr. Shuey have authority to call a strike?

A. Mr. Shuey was nowhere in the vicinity of Tungsten mine. This, as well as anything in life, is a matter of bargaining, and a strike can occur in any collective bargaining situation. It doesn't mean it is called. We had hoped that the matter would be resolved. We have never called the strike and I and others may have intimated it could occur but we certainly didn't mean we did or would have. In this instance when the men were discharged, when I first heard about it, Mr. Wood

On page 201. Lines 1 through 25.

checked with me as to what to do. Mr. Wood was staff representative at that time in Raleigh and naturally was the closest man. He has no authority to call a strike without first checking it with his superiors. He did check with me and I advised him what to do. I told him that those men should respect the existing agreement that company had even if with a defunct union and go in and talk with the company about what procedure to operate until January 15. In this organization I know Mr. Lewis and everybody on down would respect contracts. It was my advice to talk to those men who had until January 16, prior to the expiration of that notice not to renew it. We felt they had to live under that agreement until January 15. I advised Mr. Wood and know that he advised those men.

Q. How do you suppose it got out of hand?

A. I think Tungsten Mining Company can answer that. They merely came to us as a client to a lawyer. We had to help people. We couldn't turn our back on them. We were concerned when they walked out that they didn't implicate us because we were not going to be a party to the strike

under those circumstances. We felt the company should adjust those charges under the contract.

Q. You were not in favor of the strike for firing the men or refusal to bargain with you?

A. I had never come to a decision. I consult my superiors. I was frankly surprised when I got a call from Mr. Wood about

On page 202. Lines 1 through 25.

it. I was not prepared mentally or otherwise. What would happen January 15 I didn't know. I was hoping the company would come to their senses.

Q. You were figuring you had a perfect legal right to call it?

A. When?

Q. January 15.

A. I bargained to a certain point and then I did a little checking myself. From my information, from my own layman's standpoint I felt we had given them notice, this "Mill B day".

Q. What is that?

A. It is the time before an automatic contract is renewed, in this case sixty days before January 15.

Q. Where did you get the "Mill B"?

A. The name indicates nothing unless you know how it is arrived at.

BY MR. MAUPIN:

Q. How many times did you go on the Tungsten property during the strike?

A. I don't know but I did drop down a day or two after the strike to find out what had been going on and told some of my staff men to check.

THE COURT: What did you find out when you got there and what did you do?

A. I got in there in the evening and met some of the

On page 203. Lines 1 through 25.

representatives and Mr. Holloman at the cafe at Henderson, North Carolina. Actually they were wanting us to try and resolve the problem for them. I repeated to them they would have to settle with the company. They told us they had met with the management on what I had told Mr. Wood to tell them to do. I asked them what they had struck for and possibly why they didn't go further with it.

Q. With what?

A. This grievance. Handling it in the manner we recommended. I was talking particular to Mr. Holloman. Whether Mr. Knight was there I am not sure. Mr. Holloman said they did go and talk to some officials or management. When I pressed further why they didn't talk to members of whatever group might be representing this other union they said they had tried to take up the discharge back in the month and they didn't do anything about it and they thought it useless to follow our recommendation and thought best to walk out. I repeated to them we couldn't do anything, that from the 15th on possibly if they wanted to ask the company to recognize us and that was done and try to iron their problems out we would be willing. The company had to add some words, telling the people exactly what occurred. I did assist Mr. Holloman in preparing what he wanted and the men wanted and I made it clear if they wanted us from the 15th on to help them we would be available and thought it was early and was certainly valid.

THE COURT: Did you take any part in it certainly up to the

On page 204. Lines 1 through 12.

15 of January?
A. No, sir.

Q. Are you familiar with Judge Williams' restraining order?

A. I had returned to Richmond and again received a call from Mr. Wood. He had apparently found out about the restraining order. I said, "Mr. Wood, you follow that order to the letter, any restraining order".

BY MR. MAUPIN:

Q. Did you at any time authorize any violence?

A. We certainly did not. Don't gain one iota by such foolishness as that.

Q. Did you condone any violence?

A. We certainly would not and did not.

* * *

On page 205. Lines 13 through 18.

* * *

Q. How many strikes have you been involved in in your regional area?

OBJECTION BY DEFENDANT OVERRUEED.

A. . . . I don't know if any but I say there have been very few in relation to the forty or fifty companies with which we have contracts. . . .

* * *

On page 206. Lines 1 through 10.

Q. How many of those strikes were attended by violence?

OBJECTION BY DEFENDANT OVERRULED.

A. I don't know of any that we have had any violence. If it means asking somebody not to come in, or as some workers think that it is Halloween.

Q. Don't you know what is meant by violence?

A. I don't know what you mean by it.

Q. Let's say physical violence.

A. Offhand I don't know of any in any of the strikes other than the one that is in issue which certainly we didn't cause.

* * *

On page 212. Lines 11 through 18 and lines 24 and 25.

* * *

A. I might add you said "established headquarters". I think you got to bear in mind before the 15th ever occurred, I believe on the night of the 14th a restraining order was made by the Judge which brought District 50 in and named us and Mr. Wood called me. It brought us in as a party in some manner and I thought until the thing could be settled to follow it to the letter and it was for that reason that this strike headquarters was established, to get them away from the picket line.

THE COURT:

* * *

A. . . . We didn't condone any violence of any sort and we repeated it so many times to the men it got

On page 213. Lines 1 through 25.

tiresome I guess. I didn't know the legal aspect of the situation where two men were fired. Didn't know deliberately. We told them not to strike. I know of incidents people outside influenced our own people to strike. I don't know whether somebody may have forced them to go on strike to bring us in.

THE COURT: I will assume all those matters in your favor. I think it a fair statement for you to make after the 15th your organization was participating in the strike.

A. We were participating from October. We didn't participate in calling that strike. I don't know how we could by our injecting ourselves continue it or not to continue it. It was caused from something we had nothing to do with.

Q. Were you encouraging it?

A. No.

Q. Were you doing anything to bring an end to it?

A. We would have liked to do it. When I went to Henderson Mr. Holloman told me they would not attempt to get those men back in early December and didn't follow our advice and go to the union knowing they wouldn't get representation they decided to walk out, and when I was in Henderson the men asked if we couldn't do something about it. I didn't know how we could administer a defunct union. I said the contract had to run until the 15th. I said "Possibly after the 15th you can bring us in to settle this problem. We will certainly feel it is proper for us after the 15th." . . . We gave sixty days notice, even sent copy to the Labor Board. We can't tell them what to do but if the company had wanted to do the right thing they didn't have to have another election to test their certification, but we still felt the 15th was the ethical and proper date.

On page 215. Lines 16 to 21 and 25.

* * *

Q. In your opinion it would have been ethical to do it?

On page 216. Lines 1 through 6.

A. It might have been but whether we would have called a strike. In my mind I feel it would have been ethical but I feel that before we would have taken action I would have done some checking. Would have done anything to try

to iron the thing out. I don't think we would have had the strike without first trying to do something.

* * *

On page 218. Lines 9 through 13, and line 25.

* * *

RE-DIRECT EXAMINATION OF MR. ROBT. R. FOHL:

Q. Mr. Fohl, state whether or not the first time the name District 50 was ever injected into this situation at Tungsten was when the order of the Superior Court named you as a respondent?

A. That's right.

* * *

Testimony of Lucian Lincoln Wood

On page 218. Line 25.

* * *

Q. During the occasion referred to in the complaint and in the

On page 219. Lines 1 through 25.

testimony of this case were you ever in Henderson or in and around the Tungsten Mining Corporation?

A. I was.

Q. When did you first go there and under what circumstances did you go?

A. I believe it was on October 16, 1952. I was called that morning or possibly the day before by Director Fohl. He asked me to meet him and Representative Walter Shuey in Henderson. I went to Henderson and met them and the three of us went to the home of Cordell Holloman who lived out in the rural area from Henderson. We talked with Mr. Holloman and he in turn while we were there gave us some additional membership and checkoff cards.

Q. What was the occasion of your visit to Mr. Holloman?

A. It was in connection with an organizing campaign that was being conducted or had been conducted at Tungsten Mining Corporation.

Q. Who called you to come down there?

A. On that particular occasion and that was the first occasion I came in contact with Tungsten Mining Corporation was Director Fohl, Regional Director.

Q. You occupy that position in Georgia now?

A. Yes, sir. I am Director of Region 26.

Q. Had the membership campaign proceeded when you arrived there?

A. It had. We had, so I was informed that morning, that we had a substantial majority of Tungsten employees signed up on our combination membership and checkoff cards.

On page 220. Lines 1 through 25.

Q. What employee of the mine had been getting those memberships?

A. Cordell Holloman.

Q. He was in charge of signing up the new men?

A. Yes, sir.

Q. Did you see the membership cards at that time?

A. I did.

Q. Did you count them?

A. I didn't at that time. We later counted the cards.

Q. From your computations were you able to determine whether you actually in fact had a majority as of the date of your first visit?

A. We had been advised there were approximately 400 employees at the mine and on that particular day, October 16, of course others signed up subsequent to that date, but we had well in excess of a majority.

Q. How many membership cards and checkoff authorizations did the union finally obtain?

A. If I am not mistaken I am sure it was 386.

Q. Did you later count them?

A. Yes. We counted them and a list made up of those people that had signed and the badge members, and so forth.

Q. These cards which were identified yesterday, the membership cards and checkoff authorizations, are those the cards which Mr. Holloman obtained?

A. Yes, they are.

On page 221. Lines 1 through 25.

Q. Did you run out of United Mine Workers of America Cards?

A. We ran out of District 50 cards but UCW and District 50 are the same. We represent UCW and District 50 and they are the same.

Q. You used some of those cards?

A. Yes, sir.

Q. Are these the cards?

A. These are the cards.

Q. At the same time or sometime thereafter were any cards obtained from employees of Tungsten to the effect that the signatory employee wished to resign from Stone Workers and no longer wanted Stone Workers to represent that employee as certified bargaining agent?

A. That is correct. There was a mimeographed sheet of paper.

Q. Are these the cards attached to that sheet?

A. Yes, these were on the bottom. There were made out one to the Stone Workers Union and the other to Tungsten Mining Corporation I believe.

Q. Were these slips obtained from employees of Tungsten Mining Corporation?

A. They were.

Q. And these are the ones identified yesterday as defendant's Exhibit 5?

A. Yes, sir.

Q. How many of these were there?

A. Two hundred and sixty something. I am not sure of the final figure.

On page 222. Lines 10 through 23.

* * *

Q. I believe you attended a conference with Mr. Fohl and Mr. Shuey in Mr. Sweet's office?

A. I did.

Q. And I believe the conference there was substantially as testified by Mr. Sweet and Mr. Fohl?

A. Yes, sir.

Q. And at that time did your union have a majority of the employees of Tungsten Mining Corporation as members?

A. We did.

Q. Do you know of any effort made by Tungsten Mining Corporation to determine which Union had a majority of the employees?

A. I know of no effort whatsoever that the company made to determine anything concerning the desires of the people so far as which union they preferred.

* * *

On page 223. Lines 17 through 25.

* * *

Q. State whether or not on any of those visits you ever authorized or suggested a strike?

A. No, sir.

Q. What were your instructions from your leadership to you?

A. We definitely as field representatives have no authority whatsoever.

Q. What do you mean?

A. I mean no field representative of District 50 of Mine Workers would have any authority to cause, or authorize, or sanction any

On page 224. Lines 1 through 25.

strike for any reason until we have contacted our superiors. In any organizing campaign the word strike may come up. There seems to be a lot of emphasis that the word strike has been used but as you lawyers do when trying to obtain money from a client's creditor you threaten to sue them, the word strike may come up in an organizing campaign as being the last resort but so far as our causing a strike we never did.

Q. Did you suggest a strike?

A. We never suggested a strike.

Q. When was the first you heard of a strike on January 9?

A. I was called some time in the afternoon, possibly after four o'clock. I was at the Sir Walter Chevrolet getting my car worked on when my wife called and said I had a telephone call from Mr. Holloman in Henderson. I finished up at the Chevrolet place and went back home and Mr. Holloman called me back and advised me that he and Jimmie Knight had been discharged by the company earlier in the day and that the men were threatening to strike. He asked me what to do about it. I told him under no circumstances should they strike but I would call Mr. Fohl and advise him of the situation and he could call me back later. I think he was at a pay telephone or something and was to call me. I talked with Mr. Fohl and he told me to ab-

solutely attempt to use the procedure set forth in their contract which would expire January 15, Stone Workers contract. When Mr. Holloman called me back later he said the men were out on strike.

On page 225. Lines 1 through 25.

Q. Approximately how many men were present at the various organizational meetings which you attended prior to January 9?

A. I would estimate two to three hundred people at each meeting.

Q. Where were those meetings held?

A. The majority were held at the ball park near Townsville.

Q. In the open?

A. Yes, sir.

Q. How far from Tungsten?

A. About five miles.

Q. Nothing secret?

A. No, sir. No guards. It was out in the open. Most of them at the grandstand and we used a loud speaker.

Q. On January 9 you testified Holloman called you and said in spite of what you had told them they were on strike?

A. Yes, sir. I had suggested before I talked to Mr. Fohl that he contact whoever he was supposed to contact, take up something about this discharge and when he called me back and said they were on strike he said he had gone to see some official of the company and asked him about going back to work and the man had told him, this is what Holloman told me in the telephone conversation, that the man told him so far as he was concerned he was still fired.

Q. Did you then go to Henderson?

A. He asked me to come up there.

Q. What did you find when you got there?

A. Group of men on strike or out milling around the mine.

On page 226. Lines 14 through 21.

* * *

BY MR. MAUPIN:

Q. You may proceed.

A. We told them we could do nothing whatsoever in the affair because of the contract that they had with Stone Workers and that we couldn't represent Holloman and Knight in going to the company to get any satisfaction on the discharge or take any part, sanction or authorize or direct anything in the strike. That they were on their own.

* * *

On page 227. Lines 13 through 16.

* * *

Q. Were you taking any active part in the strike?

A. No, we were a disinterested party. We were more or less curiosity seekers, as I imagine hundreds of people who went by there. It was on a public road.

* * *

On page 230. Lines 16 through 23.

* * *

Q. Mr. Williams said you referred to some part of the restraining order as "malarkey". Explain that.

A. I am a layman and the first part of the restraining order had to do with a lot of legal phraseology. I started on that and may have read one or two paragraphs and said "This is a bunch of legal malarkey. I will get down to things you ought to know". I made no statement that the restraining order was a lot of malarkey, but what I said was just a slang expression.

* * *

On page 231. Lines 9 through 18 and line 22.

* * * *

Q. State whether or not you ever saw an act of violence around that plant or anywhere in connection with this plant?

A. I definitely saw no violence. They never authorized any or encouraged any. In fact the meetings we held and contacts we held or had with the pickets after the 15th we asked them and told them definitely "You never gain anything through violence" and that they should refrain from it. Nobody wins strikes or labor disputes we feel with violence.

Q. Have you ever in your life authorized the use of violence in labor strikes?

* * *

A. I never have.

* * *

Testimony of Cordell Holloman

On page 240. Lines 11 through 25.

* * *

Q. When did you go to work for Tungsten?

A. I had been working approximately two years.

Q. In what capacity? What were your jobs?

A. I was working in the engineering office up until roughly two months before the strike. I mean four months.

Q. What were you doing in the engineering office?

A. I was more or less engineer's helper.

Q. Was that a supervisory job?

A. I was not in the bargaining union.

Q. You mean Stone Workers?

A. Yes, sir.

Q. Up until when did you work in the engineering office?

A. I started to working in the mine about four months before the strike occurred I would say.

Q. When you went to work in the mine did you then join the union?

On page 241. Lines 1 through 25.

A. No, sir.

Q. When did you join the union?
A. When I went to work in the mine underground.

Q. What union did you join?
A. United Stone and Allied Products Workers.

Q. Did you attend any meetings of the Stone Workers after you joined the union during the fall of 1952?
A. Yes, sir.

Q. Did you talk to the other employees who belonged to the union?
A. Yes, sir.

Q. Frequently?
A. Yes, sir.

Q. As a result of the talks and your attendance upon the meetings did you in the fall of 1952 take any steps to contact representatives of another union other than Stone Workers?

A. When I went to work in the mines talking to a lot of folks they were very disappointed with the union they had and after talking to quite a few of them I called my cousin, Frank Lumpkin—

Q. Where was Frank Lumpkin?
A. In Hopewell, Virginia.

Q. Know what he did up there?

A. I didn't know at the time. I knew he worked for Hercules Powder Company and they had a union.

Q. As a result of your call to your cousin Frank Lumpkin what happened?

On page 242. Lines 1 through 25.

A. The next day I think Walter Shuey came to my mother-in-law's home to talk to me.

Q. Did you tell him about the dissatisfaction of the workers?

A. Yes, sir.

Q. When was this?

A. I don't know the exact date but I say around the first of October.

Q. Did Mr. Shuey tell you what union he was representing?

A. Yes, sir.

Q. What union?

A. District 50 United Mine Workers.

Q. State what you did then.

A. Mr. Shuey told me if the people had a desire to change union he could give me some cards and I could have them signed and in return they would do what they could to be bargaining union for the people.

Q. After he gave you the cards, and when you say cards do you mean membership card in District 50?

A. Membership and checkoff card.

Q. Are these the cards he gave you?

A. Yes, sir.

Q. Did he give you any other papers?

A. This is all he gave me. He gave me constitution I believe.

Q. Then what did you do?

A. Took the cards and we had quite a few gatherings, meetings,

On page 243. Lines 1 through 25.

and I had well over two hundred sign in two or three days after that.

Q. Well over how many?

A. Two hundred.

Q. Who saw to the signing of these cards?

A. I had all the cards and handed them out and had them signed at meetings and gatherings.

Q. Were they all signed by employees of Tungsten at the time?

A. Yes, sir.

Q. Did you see them signed?

A. Yes, sir.

Q. Did you have them signed?

A. Yes, sir.

Q. On October 16, 1952 did you personally have signed more than a majority of the then employees of Tungsten Mining Corporation on those cards?

A. Yes, sir.

Defendant offers in evidence membership and check-off cards in District 50 and same are marked "D-4".

Q. You know how many cards you finally wound up with signed by employees of Tungsten Company.

A. Three hundred and sixty something.

THE COURT: 386 is the number.

Q. Mr. Holloman, did you get any other cards or mimeographed sheets signed by the employees?

A. Yes, sir. At a meeting we had at the ball park we got people

On page 244. Lines 1 through 25.

to sign cards to withdraw from the United Stone Workers Union.

Q. Is that the sheet of paper which I now hand you?

A. Yes, sir.

Q. Marked as defendant's Exhibit 5?

A. Yes, sir.

Q. You remember how many of those you got signed by employees?

A. I don't remember exactly. Two hundred and fifty or sixty.

Q. You got more than a majority of the employees?

A. Yes, sir.

Defendant introduces in evidence notice of severence of relations with Stone Workers, marked "D-5".

Q. Any other papers you got signed by the employees of Tungsten during the fall of 1952?

A. I am not sure but I think we had a sheet just with names on it.

Q. Did you ever have signed a sheet by employees asking for withdrawal of checkoff authorizations?

A. Ask that again.

Q. On a long sheet of paper you say was mimeographed that you had signed by employees, was there a section of that sheet of paper signed by the employees asking the company to withdraw their checkoffs?

A. Yes, sir.

Q. You know where they are?
A. No, sir.

Q. To whom did you turn over the membership cards in District 50 .

On page 245. Lines 1 through 25.

after you had them signed?
A. Turned the cards over to the representatives.

Q. Do you remember who?
A. The first we turned over to Mr. Fohl, Mr. Shuey and Wood and the others maybe to Mr. Fohl.

Q. Turned all these papers over to some representative of District 50?
A. Yes, sir.

Q. In October and November did you have further conferences with representatives of District 50 as you went about getting these papers and cards signed?
A. Yes, sir, they were present at some meetings.

Q. Did you continue to have meetings as you got the cards signed?
A. Yes, sir.

Q. Did you form a local of District 50 at Tungsten?
A. Yes, sir.

Q. How many employees attended these meetings from time to time?
A. Two to three hundred.

Q. Was the sentiment unanimous for District 50 at these meetings?

OBJECTION BY PLAINTIFF OVERRULED.

A. Yes, sir.

Q. Who were elected officers of the Local of District 50 during the fall of 1952?

A. I was elected president. George Patton vice president and Jimmie Knight was recording secretary I think. I just don't know

On page 246. Lines 1 through 25.

who the other officers were.

Q. Were they all employees of Tungsten?

A. Yes, sir.

Q. Had they all been members of Stone Workers?

A. Yes, sir.

Q. Now, Mr. Holloman, had there been any trouble about a strike among your new union local of which you were president up to January 9, 1953?

A. No, sir.

Q. Had there been any discussion of striking at any time?

A. No, sir.

Q. Did you have in the fall of 1952, or did you as president call a meeting of your union, Local of District 50, or Stone Workers either one?

A. What date was that?

Q. Any time in the fall.

A. I had several meetings.

Q. Did Mr. Sam Scott, who testified here the other day, and Mr. J. B. Foreman, whose name you have heard mentioned, attend that meeting?

A. They attended a meeting with the Stone Workers called at the regular union hall they had on mine property.

Q. How many employees were there at that Stone Workers meeting?

A. I would say there was a good two hundred and fifty or three hundred.

On page 247. Lines 1 through 25.

Q. Who presided over the meeting?

A. Didn't anybody much. Frank Swan, President of the local Stone Workers, started to talk, and Scott had a few words and didn't get very far and people started booing, telling him they didn't care for him or his union any more. Continued to boo any time any of the representatives tried to say anything and eventually they left.

Q. What did Mr. Scott and Mr. Foreman do then?

A. They left.

Q. Was any business conducted at that meeting after Mr. Scott and Mr. Foreman left?

A. It was either that meeting or the meeting before that that George Pendley was nominated and elected recording secretary to take the place of Carde who had been promoted to shaft foreman.

Q. He went to supervisory and therefore couldn't?

A. Yes, sir.

Q. Was a majority of employees present at that meeting?

A. Yes, sir.

Q. Did you authorize the duly elected recording secretary, George Pendley, to contact the company?

OBJECTION BY PLAINTIFF.

Q. Did you give George Pendley any instructions after you elected him recording secretary of Stone Workers?

A. Yes, we had George Pendley to send a letter to the company and to United Stone Workers.

On page 248. Lines 1 through 25.

Q. What did that letter say, if you know?

A. I don't know the exact words but I know the reason for the letter.

Q. I hand you what purports to be defendant's Exhibit 1, dated November 13, 1952, addressed to Tungsten Mining Corporation, indicating that a copy was sent to Stone Workers and the National Labor Relations Board. Is that the letter that George Pendley was instructed to write and did write?

A. That is the letter.

Q. And you witnessed it?

A. Yes, sir.

Q. Did Paul G. Gentry witness it?

A. Yes.

Q. Did R. M. Harris witness it?

A. Yes, sir.

Q. All were employees of Tungsten Mine?

A. Yes, sir.

Q. Did they attend the meeting at which that was authorized?

A. I suppose so.

Q. This letter of November 13 which George Pendley wrote to Stone Workers, did the workers at that meeting vote in favor of George Pendley, Secretary and Treasurer, writing the letter and mailing it?

A. Yes, sir.

Q. Did he mail it?

On page 249. Lines 1 through 25.

A. I suppose so.

Defendant introduces in evidence letter of November 13, 1952 to Tungsten Mining Corporation from George Pendley, marked "D-1".

Q. You stated there was a long mimeographed sheet of paper containing places for signatures of employees of

Tungsten of which you got more than a majority. Is this what you are talking about?

A. Yes, sir.

Q. And did you personally get more than a majority of signatures of the employees to this paper?

A. Yes, sir.

Defendant introduces in evidence mimeographed sheet containing three sections, one addressed to Tungsten Mining Corporation asking for withdrawal of checkoff authorizations; one addressed to Stone Workers; and

3. (A) To whom it may concern:- I hereby wish to sever all relations with the United Stone and Allied Products Workers of America and request that it no longer be the certified bargaining agent at Tungsten Mining Corporation, Tungsten, North Carolina". A blank for signature, a blank for page number, a blank for witness and a blank for date.

said mimeographed sheet being marked "D-7".

THE COURT: What did you do with it?

A. I think the whole thing was turned over to Mr. Fohl.

Q. In the fall?

A. Yes, sir.

On page 250. Lines 8 through 15 and lines 22 through 25.

* * *

Q. Did any representatives of District 50 ever suggest that you strike, authorize you to strike, or encourage you to strike?

A. No, sir.

Q. Were you present at the meeting on October 16, 1952?

A. I don't remember.

Q. The day it was testified yesterday that Messrs. Fohl, Shuey, and Wood went to see General Manager Sweet?

A. No, sir. I was at my home.

* * *

Q. Did you know they were going to see Mr. Sweet?

A. Yes, sir.

Q. Did they at that time have these cards and mimeographed paper?

A. They had the cards.

On page 251. Lines 1 through 3.

Q. Did you have more than a majority of the cards representing more than a majority of the employees?

A. Yes, sir.

* * *

On page 252. Lines 9 through 25.

* * *

Q. Where were you about eleven-thirty A.M. on January 9, 1953?

A. Working on the 500 level up in the stope about 60 feet from the track. Jimmie Knight and I were working together. This particular stope was a small one and very hard to get through. Had to climb the ladder from the bottom to the top. I would say around eleven-thirty we came down to get a short piece of 2 by 4 about two feet long. Had to saw it a particular angle to make it fit. We did that and shortly after we had finished we started to eating lunch because by the time we would have gone up in the stope it would have been lunch time anyway before we got up to where we were working. So we started eating lunch.

Q. What time?

A. I don't recall exactly but around a quarter or ten minutes to twelve. Jeter Murdock and Townsend came by where we were eating.

Q. Who are they?

A. Townsend was shaft boss. Jeter Murdock was assistant mine foreman.

On page 253. Lines 1 through 25.

Q. Were they your superiors?

A. Yes, sir. They went up in the stope I would say ten or fifteen feet of the track, stayed about five minutes and came back down. Murdock went back to the shaft and Townsend came to where we were eating lunch and said, "You fellows realize you are eating lunch a little early." I don't know the remarks we made but he said, "In other words you are fired", and so we didn't argue about it or anything.

Q. Did he say anything else?

A. Yes, he said, "Go up and get your time", and so we went out with him to the shaft and went up and changed clothes. At that time I guess it was close to one o'clock or maybe one-thirty.

Q. Did you get your check?

A. No, sir.

Q. Did Jimmie Knight get his?

A. I don't believe so.

Q. Had Murdock or Townsend ever warned you about eating lunch before twelve o'clock?

A. They had not. In fact I had eaten lunch with both of them before twelve occasionally.

Q. And they had never ordered you not to eat lunch before twelve or warned you?

A. No, sir.

Q. How long had you and Jimmie Knight been working together?

A. We either started that day or the day before.

* * *

On page 255. Lines 9 through 25.

* * *

Q. Now, Mr. Holloman, I want you to go into detail about something you said. You said you and Jimmie Knight had come down to the tracks from up in the stope about sixty feet to get a 2 by 4.

A. Yes, sir. This particular stope was at the top about two or three feet wide and had to cut the 2 by 4 at an angle which would require measurements and angle cutting. We got the 2 by 4 and sat down to eat lunch.

Q. What time was that?

A. Roughly fifteen minutes to twelve.

Q. Were you going to take the cut 2 by 4 back up in the stope?

A. Yes, sir.

Q. How did you have to go up in the stope?

A. It was very narrow. Go up a few feet in a small section of the stope then go up in another section. Very difficult to get through and it would require quite a bit of time.

Q. How long would it have taken you to get back up in the stope after you got the 2 by 4?

On page 256. Lines 1 through 25.

A. Carrying the 2 by 4, we were working fifty or sixty feet from the track, it would take fifteen or twenty minutes to get back up there.

Q. Then where would you have to go to eat lunch?

A. Would have to go back to the track.

Q. Was it your intention to take more than thirty minutes?

A. No, sir, we had often ate lunch earlier but didn't take more than thirty minutes. If we had ate at quarter to twelve we would get back at quarter after twelve.

Q. Would you at this particular time?
A. I would have been more careful.

Q. Why?
A. Because I knew the company knew I was more or less organizing a different local union than they had and was afraid they would fire me and I did my work better during that period and was extremely cautious not to do anything wrong to be fired.

Q. Mr. Townsend said, "You are fired"?
A. Yes, sir. Townsend and Jimmie Knight and I went back to the shaft together. Going up on the cage Townsend said, "I hope you fellows realize it was not my idea for firing you".

Q. You say you had eaten lunch with Townsend before before twelve o'clock?
A. Yes, sir.

Q. When you got to the surface what did you do?
A. We went over to the change shaft and changed clothes and went

On page 257. Line 1 and lines 9 through 25.

to Henderson.

* * *

BY MR. ARENDELL:

Q. Went into Henderson and then what did you do?
A. Went into Henderson and saw a lot of fellows going to work at six o'clock and told them what had happened and then in turn they saw a lot of fellows I suppose and told them what had happened. I guess this was around two or three o'clock. I called Wood in Raleigh, and Wood said that he would call Fohl, that they couldn't do anything for us he was sure, that the thing for me to do was go through the grievance procedure with Stone Workers and I suppose I hung up at that time. We talked to a lot of fellows after

that and they decided, or we decided rather, it wouldn't be any use to take up the grievance with the Stone Workers Local from other things that had happened. Then Jimmie Knight and I went to see I think Roberson.

Q. Who was he?
A. Assistant to Buck O'Donnell.

Q. Who was Buck O'Donnell?
A. Mine superintendent.

On page 258. Lines 1 through 25.

Q. Go back to Tungsten to see them?
A. Yes, sir. They lived in the same row of houses or right next door to each other. O'Donnell won't at home and we saw his assistant and Roberson said so far as he was concerned we were fired.

Q. Did he suggest anything?
A. He suggested nothing. We told the fellows, a lot of them standing there, and they told everybody coming off the shift which I think was four o'clock. Ninety-five percent of them stayed there. This was when we were coming from Henderson. Everybody we met on the road turned around and went back to the mine. Didn't nobody go to work at six o'clock. Maybe one or two scattered.

Q. Did Wood or Fohl, or anybody representing District 50 suggest you go on strike?
A. No, sir. They suggested that I take it up through grievance with Stone Workers. We decided it wouldn't be no use.

Q. Was Mr. Foreman around that day?
A. I didn't see Mr. Foreman on that day.

Q. State what happened then.
A. Well, I don't know exactly what happened right at that time.

THE COURT: Did you have any formal meeting in which you adopted a resolution or was it just from one to the other?

A. It was just from one to the other.

Q. How many of them stayed out at six o'clock?

A. I would say about 150 would have gone to work at six

On page 259. Lines 1 through 6 and lines 21 through 25.

o'clock and roughly 150 or 200 coming off at four o'clock and everybody was there I would say at six o'clock.

Q. How many?

A. 300 or 350.

Q. You mean 350 that struck and didn't go to work?

A. Yes, sir.

* * *

Q. Did you ever take part in any violence?

A. No, sir.

Q. Did you ever advise or encourage any violence?

A. No, sir.

Q. Were you around the gates for several days?

On page 260. Lines 1 through 6.

A. I was there practically twenty-four hours a day.

Q. Did any representative of District 50 ever advise or encourage the continuance of any strike or any violence?

A. Not in my presence.

Q. Did you see any violence ever during the strike?

A. No, sir.

* * *

On page 261. Lines 3 through 7 and lines 17 through 19.

* * *

Q. Were you there when the District Court restraining order came down on February 3?

A. Yes, sir.

Q. Did the strike immediately end?

A. Yes, sir.

* * *

THE COURT: Where are you working now?

A. National Analine Division Allied Chemical and Dye, Hopewell, Virginia.

On page 262. Lines 1 through 4.

THE COURT: Are you in a supervisory job?

A. Yes, sir.

Q. Are you a member of any union now?

A. No, sir.

Testimony of J. B. Foreman

On page 271. Lines 4 through 25.

* * *

Q. Did you have occasion to come down to Henderson or Tungsten, North Carolina the fall of 1952?

A. Yes, I did.

Q. Who were you employed by at that time?

A. United Stone and Allied Products Workers of America.

Q. For what purpose did you go to Henderson?

A. There was some trouble with the local union.

Q. What was your position with the United Stone and Allied Products Workers?

A. National representative.

Q. Who directed you to go to Henderson or Tungsten?

A. Mr. Sam A. Scott.

Q. When did you go?

A. Around October 18.

Q. What was Mr. Sam Scott's position?
A. President of International Union.

Q. Where does he reside?
A. Winston-Salem, North Carolina.

Q. When you got down to Henderson what did you find?
A. I found that the local union here was being raided by District 50.

Q. What do you mean by that?

On page 272. Lines 1 through 25.

A. We use the word "raiding" when members of our union sign up in another union.

Q. How did you find that out when you got down here?
A. I found that out by contacting the workers.

Q. How many did you contact?
A. That would be hard to say. I contacted many of them at Henderson on the streets, or at least they contacted me, as well as quite a number came to the hotel and I contacted a number of them around Tungsten.

Q. In respect to whether or not you contacted a majority what would you say?
A. I would say I talked to a majority.

Q. What did you find from your conversations with these employees?
A. I found a very bad situation.

Q. What do you mean by a bad situation?
A. It appeared that a majority of them had signed into another union.

Q. What union was that?
A. District 50.

Q. What percent do you know or have an opinion had signed with District 50 of the employees of this plant?
A. I felt that practically all of them had.

Q. Did you report then to Mr. Sam Scott?
A. Yes, I did.

Q. What did you tell him?

On page 273. Lines 1 through 7 and lines 21 through 25.

A. Told him it looked like he had a bad situation here.

Q. Tell him about what majority had been signed up with District 50?
A. Yes, sir. Told him it looked like most of them had signed up with District 50.

Q. What did he say and do?
A. Said it was my job to rebuild the organization.

* * *

Q. At any time from the time you got there until the 9 of January you know whether or not a majority of employees of Tungsten were signed up with United Mine Workers, District 50?
A. No question in my mind.

Q. Ever talk with Mr. Sweet and Mr. Long about that?

On page 274. Lines 1 through 25.

A. I talked to Mr. Sweet and talked to Mr. Long.

Q. Was that during the fall of the year or when?
A. It was during this period. I don't know the exact date.

Q. Where were you when you talked to them about the membership of the employees?
A. I believe I talked to them several times.

Q. Were they informed that the situation was relative to membership in District 50 United Mine Workers?
A. Yes, sir. I don't think any question in anybody's mind regarding the membership that had signed with District 50.

Q. When you found out what the situation was what action was taken by your executive board?

A. When we found we had a few members and practically no officers I was appointed administrator by the International Union.

Q. I hand you a document and ask you to please examine that.

Defendant offers in evidence notice to all members of Local 98 Stone Workers, dated November 18, 1952 and same is marked "D-3".

Q. Were any slips presented to you signed by workers of Tungsten Mine withdrawing from Stone Workers?

A. Yes, sir.

Q. Do you have such slips?

A. Yes, I do.

Q. Who delivered these to you?

A. These were mailed to me by Mr. Holloman.

On page 275. Lines 18 through 25.

* * *

BY MR. GREEN:

Q. Did you have a conference from time to time with Mr. Sweet, Mr. Long and Mr. Scott?

A. Yes, I believe we met.

Q. Where did you meet Mr. Sweet?

A. I believe at his office several times.

Q. Ever meet him at his home?

A. Yes, I believe I met him at his home.

On page 276. Lines 1 through 25.

Q. How many times?

A. Once, maybe twice.

Q. Was that during the night?

A. I would say it was in the evening.

Q. Who was with you?
A. Mr. Scott.

Q. Ever have a meeting with Mr. Long?
A. I believe we met Mr. Long at the office.

Q. Meet him in the hotel at Henderson?
A. Mr. Long may have come by and stopped to chat a little once or so.

Q. I hand you a document and ask you to look at it. Did you write the original of that and sign it and send it to Tungsten Mining Corporation?
A. I did.

Defendant introduces in evidence letter dated November 14, 1952 from J. B. Foreman, International Representative, to Tungsten Mining Corporation, marked "D-2".

Q. In that letter you referred to negotiating for a new contract.
A. That's right.

Q. At that time did you know what percentage, or approximately what percentage that desired District 50 bargain for them?
A. We had very few members.

Q. How many would you say you had?
A. I wouldn't like to say. Maybe five percent.

On page 277, Lines 1 through 25.

Q. Now, Mr. Foreman, you had been appointed administrator?
A. Yes, sir.

Q. And you had served such notice on the company and on the employees hadn't you?
A. Yes, sir.

Q. What was your authority as an administrator?
A. As administrator I was the whole union.

Q. When do you in your organization appoint an administrator?
A. Usually when they lose membership and officers.

Q. And for what purpose is the administrator appointed?
A. Appointed to protect international union and funds of local union.

Q. Isn't he appointed for the purpose of retaining control after the members have withdrawn?
A. Yes, and to protect the certification of the union.

Q. What was the attitude and action by Mr. Sweet and Mr. Long towards the union or organization which you represented as administrator?
A. Personally I always got along fine with Mr. Sweet and Mr. Long. Think a lot of them.

Q. Do you know whether it was their desire to maintain Stone Workers or comply with the wishes of a majority of the employees?

OBJECTION BY PLAINTIFF SUSTAINED.

Q. You know which organization they wanted to retain as their bargaining agent for their mill?

OBJECTION BY PLAINTIFF SUSTAINED.

On page 278. Lines 1 through 25.

Q. Did they ever tell you which organization they wanted to retain?
A. No, I don't believe they did.

Q. Did you enter into any negotiations or talk about a new contract or a wage scale?
A. We entered into negotiations.

Q. Was there any statement made by Mr. Long or Mr. Sweet or either one about recognizing District 50, United Mine Workers?

A. I don't think any question. I believe it was in the paper that the company didn't want to recognize District 50 because they were not using National Labor Relations Board.

Q. Tell about your negotiations in respect to a contract, where it was made, what was entered into and the whole facts so far as same related to the new contract in the wage scale.

A. Mr. Scott, who was my superior officer, told me one day I would have to leave the next day for New York to negotiate the contract and I did leave. I went to Martinsburg that same day and the next day met Mr. Scott in Washington or Wilmington, Delaware and went with him to New York. The following day we met and negotiated the contract.

Q. Where did you stay in New York.

A. I believe the Picadilly Hotel.

Q. With whom did you meet?

A. Mr. Long and Mr. Sweet.

Q. Who else was in the conference?

On page 279. Lines 1 through 25.

A. Mr. Scott was there and Mr. Angoff.

Q. Where did you meet?

A. In a hotel across the street from where we were staying.

Q. Do you recall whether it was the Astor?

A. The record will show that.

Q. What was said and done at that meeting?

A. To enter into negotiations, which we did, and the result we entered into contract.

Q. Tell what was said by you and Mr. Long and Mr. Sweet and Mr. Sam Scott?

A. The company had some very good suggestions, which we agreed to, I believe regarding adjustment of a couple of wage rates for some of the departments. Main thing I was interested in was the money because as administrator I thought the more I could get the men take home pay the more chance I would have in rebuilding the union. We agreed to 10c on the hour and I stated if they could see their way for 2½c more they could write the contract.

Q. Where was that?

A. In the hotel.

Q. What city?

A. New York.

Q. What date was that?

A. I believe December, 17.

Q. Did they then make any further agreement or come to your demand for 12½c per hour increase?

On page 280. Lines 1 through 25.

A. I believe we had a meeting at the mine office around the 17th.

Q. Let's finish up the New York Meeting. What was agreed to in New York?

A. The complete agreement.

Q. What was that increase?

A. I took it as 12½c.

Q. You had full authority to act for the union?

A. Yes, sir.

Q. Did you have to have a committee to serve with you?

A. No.

Q. Did you sign the contract that day?

A. No.

Q. Why didn't you sign it?

A. Of course it has to be written up before it is signed.

Q. Is that the only reason?

A. I believe Mr. Scott suggested we meet at Tungsten with the managing committee and go over it.

Q. What did Mr. Sweet say about that?

A. He objected to that same as I did because we thought it useless to do that.

Q. What kind of meeting were you going to have with the committee?

A. Actually the same as we had in New York to negotiate the contract.

Q. State whether you prepared the contract and submitted it to

On page 281. Lines 1 and 2 and lines 17 through 25.

the committee before the meeting down at Tungsten mine?

A. No. . . .

* * *

OBJECTION BY PLAINTIFF

Q. I ask you isn't it a fact that when you came back you went into this meeting as if no agreement had ever been entered into in New York and you didn't let the people know about it and argued back and forth?

OBJECTION BY PLAINTIFF OVERRULED.

A. Yes, sir.

Q. How long did you stay around Tungsten Mine or around Henderson?

A. I think I left in March.

On page 291. Lines 16 through 22.

* * *

Defendant introduces in evidence Article 9 of the constitution of District 50 entitled "Strike policy, sec-

tion 1". "No strike action shall be taken which does not comply with existing laws and before it has been approved by a majority of the workers involved and no strike shall take place without first obtaining approval therefor from the administrative officer of District 50".

Testimony of Jeter Murdock

On page 296. Lines 12 through 25.

* * *

Q. You don't ever recollect firing anybody before that for eating lunch half an hours before twelve?

A. No, sir.

Q. Have you fired any since?

A. I don't think so.

Q. Why did you fire these particular two.

A. That was Mr. Townsend. I walked out and he went and talked to these boys.

Q. You could have told him not to fire them?

A. Yes, sir.

Q. You could have rescinded it?

A. Yes.

Q. You thought it was the right thing to do?

A. Yes.

* * *